

# Governance Rules

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# CHAPTER 1 – INTRODUCTION

## 1.1 GOVERNANCE RULES AND THE LOCAL GOVERNMENT ACT 2020

Under the Local Government Act 2020;

- (1) A Council must develop, adopt and keep in force Governance Rules for or with respect to the following-
  - (a) the conduct of Council meetings;
  - (b) the conduct of meetings of delegated committees;
  - (c) the form and availability of meeting records;
  - (d) the election of the Mayor and the Deputy Mayor;
  - (da) the appointment of an Acting Mayor;
  - (e) an election period policy in accordance with section 69;
  - (f) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130;
  - (g) the procedure for the disclosure of a conflict of interest by a Councillor under section 131;
  - (h) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1);
  - (i) any other matters prescribed by the regulations.
- (2) The Governance Rules must provide for a Council to:
  - (a) consider and make decisions on any matter being considered by the Council fairly and on the merits; and
  - (b) institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.
- (3) A Council may amend its Governance Rules.
- (4) Subject to subsection (5), a Council must ensure that a process of community engagement is followed in developing or amending its Governance Rules.
- (5) Subsection (4) does not apply if the Council is developing and adopting or amending a Governance Rule that only adopts a good practice guideline issued by the Minister under section 87.
- (6) A Council must comply with its Governance Rules.
- (7) A Council must adopt the first Governance Rules under this section on or before 1 September 2020.
- (8) Until a Council adopts Governance Rules under this section, the Local Law Meeting Procedures made by the Council under the *Local Government Act 1989* apply as if the Local Law Meeting Procedures had been adopted as Governance Rules under this section.

## CHAPTER 2 – DEFINITIONS

Unless otherwise specified within these Governance, the following words and phrases are defined to mean the following in terms of these Rules.

Act (or "the Act")	The <i>Local Government Act 2020</i> unless otherwise specified.
Advisory Committee	A committee established by Council that is not a Delegated Committee, which provides advice to Council or to a member of Council staff who has been delegated a power, duty or function of Council.
Agenda	A document containing the date, time and place of a Meeting along with details of the business to be transacted at the Meeting.
Authorised Officer	An officer appointed for the purposes of the administration and enforcement of any Act, regulations or local laws which relate to the functions and powers of Council.
Chair	The Chairperson of a Meeting and includes an acting, temporary or substitute Chairperson.
Chamber	Any room where a Council Meeting is held.
Chief Executive Officer (CEO)	The person occupying the office of Chief Executive Officer of Council and includes a person acting as Chief Executive Officer.
Councillor Code of Conduct	A document required under the Act outlining the standards of conduct expected from Councillors in the performance of their duties and functions as Councillors.
Council	The Greater Dandenong City Council.
Councillor	An elected representative (Councillor) of Council.
Council Meeting	A meeting of Council convened in accordance with these Governance Rules. In these Rules, Council Meetings include Delegated Committee Meetings unless otherwise specified.
Delegated Committee	A delegated committee, other than a Community Asset Committee, established by Council under section 63 of the <i>Local Government Act 2020</i> or by two or more Councils under section 64 of the Act.
Delegated Committee Meeting	A meeting of a Delegated Committee convened in accordance with these Governance Rules.
Deputy Mayor	The Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor.
Determination by Lot	The casting or drawing of objects from a receptacle to decide something (e.g. to choose a person by lot ). A procedure used when a deadlock is to be resolved by the drawing of lots.
Disorder	Any conduct of a Councillor, Delegated Committee Member, Council staff member or member of the public that includes making comments that are disrespectful, inflammatory, defamatory, malicious, abusive or offensive, interjecting in breach of these Rules, refusing to leave the Chamber when directed to do so or engaging in any other conduct which prevents the orderly conduct of the business of a Council Meeting.
Division	A formal count and recording of those voting for and those voting against a motion. This is a formal method of voting in which the vote of each member is specifically declared and recorded in the Minutes.



Election Period	Also known as Caretaker Period. In relation to Council Elections, means the period that: <ul style="list-style-type: none"> <li>a) starts on the last day on which nominations for that election can be received; and</li> <li>b) ends at 6.00pm on Election Day.</li> </ul>
Electoral Advertisement	Each article or paragraph in the proprietor's newspaper containing electoral matter, the insertion: <ul style="list-style-type: none"> <li>a) of which is, or is to be, paid for; or</li> <li>b) for which any reward or compensation or promise of reward or compensation is, or is to be, made.</li> </ul>
Electoral Material	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.
Gallery	The area within a Chamber in which member of the public are seated.
Majority	Represents half the number of Councillors present at a meeting plus one.
Mayor	The Mayor of Council and any person appointed by Council to be acting as Mayor.
Meeting	A Council Meeting or a Delegated Committee Meeting.
Member	A member of any committee to which these Governance Rules apply.
Minister	The Minister for Local Government.
Minutes	The formal record of proceedings and decisions of a meeting.
Motion	A proposal from a Councillor framed in a way that will result in the opinion and desire of Council being expressed and a Council decision being made once it has been adopted (passed or carried) at a Council Meeting.
Municipal District ((Municipality)	The area comprising the municipal district of Greater Dandenong.
Municipal Offices	The Civic Offices of the Greater Dandenong City Council.
Notice of Motion	A notice setting out the precise words of a motion which a Councillor proposes to move at Council meeting.
Penalty Unit	has the meaning set out in section 110 of the <i>Sentencing Act 1991</i> .
Point of Order	A procedural point made to the Chair about how the Meeting is being conducted or alleging some irregularity in proceedings.
Procedural Motion	means a motion which relates to a procedural matter only. It is not designed to produce any substantive decision but used as a formal procedural measure to assist the business of the meeting.
Public Consultation	A process that involves inviting individuals, groups or organisations or the community in general to comment on an issue or proposed action or proposed policy, and which includes discussion of that matter with the public.
Publish	To publish or present by any means, including in a public forum, verbally or by publication on the internet or social media.

Quorum	The minimum number of Councillors or Delegated Members required at a Meeting in order for it to commence and continue. A quorum is defined within the Act as an absolute majority.
Recommendation	A proposal from a Council officer framed in a way that will result in the opinion and desire of Council being expressed and a Council decision being made once it has been adopted (passed or carried) at a Council Meeting.
Resolution	A decision made at any Council Meeting or Delegated Committee.
Ratepayer	A person who pays Council rates for a property within the municipal district of Greater Dandenong and who may or may not reside within the municipal district.
Resident	A person who lives within the municipal district of Greater Dandenong.
Senior Officer	An officer of Council as defined by section 3 of the <i>Local Government Act 1989</i> .
Significant Decision	An irrevocable decision that commits an incoming Council to substantial financial expenditure, major operational actions or limits the freedom of an incoming Council to make a decision, or a decision that will significantly impact upon the municipality.
Substantive Motion	A motion being considered at a Council Meeting or Delegated Committee dealing with the opinion and desire of Council being expressed, a Council decision being made once adopted and resulting in operational and/or strategic actions of Council or Council officers (as distinct from a procedural motion).
Suspension of Standing Order	means the suspension of the provisions of a Council Meeting Agenda or these Governance Rules to facilitate full discussion on an issue without formal constraints.
Urgent Business	Matters that have arisen since the distribution of a Council Meeting Agenda which require a decision from Council or a Delegated Committee and cannot safely or conveniently be deferred until the next meeting.
Webcast	The live or archived broadcast of a Council Meeting on Council's internet website.
Written	Describes correspondence or notices that may be printed, hand-written, emailed, duplicated, photocopied, photographed or typed.

## CHAPTER 3 – CONFLICTS OF INTEREST

### 3.1 LOCAL GOVERNMENT ACT 1989

The following is valid under the *Local Government Act 1989* until the 24 October 2020.

Section 77A of the *Local Government Act 1989* defines when a Councillor will have a direct or indirect conflict of interest. The onus is on the Councillor to identify any conflicts of interest in matters before Council. Councillors must comply with the requirements of Section 79 of the *Local Government Act 1989* until provision of the *Local Government Act 2020* in relation to material or general conflicts of interest come into force on 24 October 2020.

A Councillor who has a conflict of interest in a matter before Council:

- a) must complete a 'Disclosure of Conflict of Interest Form' and lodge it with the Chief Executive Officer prior to the commencement of a Council Meeting;
- b) must disclose any conflict of interest which they have in an item of business at the time specified on the Agenda;
- c) must disclose the nature of the conflict of interest immediately before the consideration of the relevant matter;
- d) must notify the Chair that they are leaving the Chamber and then leave the Chamber; and
- e) must remain outside the Chamber or any other area in view or hearing of the Chamber until the vote has been taken.

In the event that the Chair has disclosed a conflict of interest they must vacate the Chair and the Deputy Mayor must take the Chair, or in their absence a temporary Chair must be nominated and elected.

Where a Councillor has vacated the room after disclosing a conflict of interest, the Councillor must be called back into the room before the Meeting can advance to the next item of business.

A member of Council staff must also comply with section 80B and 80C of the *Local Government Act 1989*.

Under the *Local Government Act 1989*, a Councillor must comply with direct and indirect conflict of interest provisions and if they fail to do so may be found guilty of an offence which is punishable under the Act.

### 3.2 LOCAL GOVERNMENT ACT 2020

The following is valid under the *Local Government Act 2020* after the 24 October 2020.

Section 130 of the *Local Government Act 2020* defines when a Councillor or Member of a Delegated Committee will have a material or general conflict of interest. The onus is on the Councillor or Delegated Committee Member to identify any conflicts of interest in matters before Council or a Delegated Committee. Councillors or Delegated Committee Members must comply with the requirements of Section 130 of the *Local Government Act 2020*.

A Councillor or Delegated Committee Member who has a conflict of interest in a matter before Council or a Delegated Committee:

- a) must complete a 'Disclosure of Conflict of Interest Form' and lodge it with the Chief Executive Officer or Chair prior to the commencement of a Council Meeting;
- b) must disclose any conflict of interest which they have in an item of business at the time specified on the Agenda;
- c) must disclose the nature of the conflict of interest immediately before the consideration of the relevant matter;
- d) must notify the Chair that they are leaving the Chamber and then leave the Chamber; and
- e) must remain outside the Chamber or any other area in view or hearing of the Chamber until the vote has been taken.

In the event that the Chair has disclosed a conflict of interest at a Council Meeting they must vacate the Chair and the Deputy Mayor must take the Chair, or in their absence a temporary Chair must be nominated and elected. In the event that the Chair has disclosed a conflict of interest at a Delegated Committee Meeting they must vacate the Chair and a temporary Chair must be nominated and elected.

Where a Councillor or Delegated Committee Member has vacated the room after disclosing a conflict of interest, the Councillor or Delegated Committee Member must be called back into the room before the Meeting can advance to the next item of business.

Under the *Local Government Act 2020*, section 130 mentioned above applies to all relevant persons, which includes Councillors, Delegated Committee Members and members of Council Staff. Under the *Local Government Act 2020*, a relevant person must comply with material and conflict of interest provisions and if they fail to do so may be found guilty of an offence which is punishable under the Act.

# CHAPTER 4 – COUNCIL MEETINGS AND MEETING PROCEDURES

## 4.1 INTRODUCTION

These Meeting Procedures ensure that transparent, efficient and effective processes are in place to conduct the business of Council through scheduled meetings which are open to the public in accordance with the *Local Government Act 2020* (the Act). Meetings will only be closed to the public if there are clear reasons for matters to remain confidential under the Act, the meeting is required to be closed for security reasons or if it is necessary to enable the meeting to proceed in an ordinary manner. The Procedures regulate proceedings and provide for orderly and fair conduct at all Council meetings, Delegated Committee meetings, Joint Delegated Committee meetings, Audit and Risk Committee meetings and any other meetings conducted by or on behalf of Council under the Act.

## 4.3 NOTIFICATION OF MEETINGS AND AGENDAS

### 4.3.1 Date, Time and Place of Meetings

Council will fix the dates, times and place of all Council meetings for a twelve-month period at the Annual Meeting of Council which is to be held no earlier than the first Saturday in November and no later than the last Saturday in November. The date, time and place of all Council meetings must be made available to the public.

Reasonable notice of Council Meetings is given by advertising in local newspapers, on Council's website and in Council's publications (including social media). This is done either annually, or at various times throughout the year, or just prior to each meeting.

Council may, by resolution, at a Council Meeting, alter the day, time and place at which any Council Meeting will be held, and must provide reasonable notice of the change to the public. Reasonable notice of Council Meetings is considered to be at least three (3) business days before a scheduled meeting.

### 4.3.2 Notice of Meetings

#### **The Public**

An Agenda, which includes the date, time, place and business of a scheduled meeting, will be made available to the public via Council's website three (3) business days before that meeting.

#### **Councillors and Delegated Members**

An Agenda which includes the date, time, place and business of a scheduled meeting must be delivered by courier, post, electronic medium or otherwise to each Councillor's or Delegated Committee Member's place of residence or usual place of business (if applicable) or as otherwise specified by the Councillor. An Agenda for any scheduled meeting will be served on every Councillor and Delegated Member no less than three (3) business days before that meeting.

It will not be necessary for a notice of a meeting or Agenda to be served on any Councillor who has been granted leave of absence, unless the Councillor has requested in writing to the Chief Executive Officer to continue to give notice of any meeting to be held during the period of his or her absence.

## 4.4 MEETINGS OPEN TO THE PUBLIC

In accordance with section 66(1) and (2) of the *Local Government Act 2020* all meetings of Council or Delegated Committees must be open to the public unless the Council or Delegated Committee considers it necessary to close the meeting to the public because it:

- is to consider confidential information as prescribed under section 66(5) of the Act; or
- is to be closed for security reasons; or
- is necessary to close the meeting to enable it to proceed in an orderly manner.

## 4.5 QUORUM

The quorum for any Council meeting must be half plus one, which is the majority of the number of Councillors. A quorum is required for the entire meeting and if at any point during a meeting a quorum is not maintained, the meeting shall be adjourned until such point as a quorum can be achieved.

The quorum for any Delegated Committee Meeting must be half plus one, which is the majority of the number of Committee Members with voting rights.

If a quorum is not present within thirty (30) minutes of the time appointed for the commencement of any Meeting, those Councillors or Members present, or if there are no Councillors or Members present, the Chief Executive Officer, or in their absence, a Senior Officer, must adjourn the Meeting for a period not exceeding seven (7) days from the date of the adjournment. (*See section 4.14 in these Rules.*)

### 4.5.1 Inability to Maintain a Quorum

If during any Meeting a quorum cannot be achieved and maintained, those Councillors or Delegated Committee Members present or, if there are no Councillors or Members present, the Chief Executive Officer, or in their absence, a Senior Officer, must adjourn the Meeting for a period not exceeding seven (7) days from the date of the adjournment.

Section 67 of the *Local Government Act 2020* provides for the event of Council not being able to maintain a quorum because the number of Councillors who have disclosed a conflict of interest in an item prevents a quorum from being maintained. If during any Meeting it becomes apparent to the Chair that it will not be possible to maintain a quorum due to the number of Councillors who cannot vote on the item because of a disclosed conflict of interest, Council may:

- a) determine the matter be considered in separate parts if a quorum can be maintained for each separate part of the item; or
- b) delegate the decision to be made by the Chief Executive Officer or by a Delegated Committee established for the purpose of determining the matter and comprised of those Councillors who have not disclosed a conflict of interest and any other person(s) that Council considers suitable; or
- c) determine that the item of business will lie on the table and be considered at the next available Meeting when a quorum can be reached.

Any decision made under delegation by the Chief Executive Officer or a Delegated Committee in this instance will be reported to the next Council Meeting.

## 4.6 BUSINESS AT MEETINGS

This section can be generally applied to all meetings of Council conferred under the *Local Government Act 2020*. This includes Delegated Committee Meetings and joint meetings of councils. Where a difference is warranted, then that is expressly stated within the text.

### 4.6.1 Meeting Agendas – Order of Business

The general order of business to be transacted at a Council Meeting is contained in the Agenda provided to Councillors and Delegated Committee Members available to the public on Council's website. The Chief Executive Officer oversees preparation of an Agenda and determines the content and order of business to facilitate open, efficient and effective processes of government in consultation with the Mayor.

The Chief Executive Officer may include any matter on an Agenda that they believe should be considered by Council.

Unless otherwise resolved by Council, the general order of business at a Council Meeting will be listed as follows:

- a) Meeting opening/Acknowledgement of traditional owners of the land/Attendance/Apologies (including Leaves of Absence);
- b) Offering of Prayer;

- c) Mayoral Presentation (Optional – *see section 4.6.3 of these Rules*);
- d) Confirmation of Minutes of previous Meetings (*see section 4.18 of these Rules*);
- e) Deputations (*see section 4.6.5 of these Rules*);
- f) Disclosure of Conflicts of Interest (*see Chapter 3 of these Rules*);
- g) Officer's Reports - Routine and Town Planning Reports (*see section 4.6.7 of these Rules*). Routine reports include:
  - i) Documents for Sealing;
  - ii) Documents for Tabling; and
  - iii) Petitions/Joint Letters (*see section 4.6.9 of these Rules*);
- h) Public Question Time (*see section 4.6.8 of these Rules*);
- i) Officer's Reports – Other (*see section 4.6.9 of these Rules*);
- j) Notices of Motions (*see section 4.6.11 of these Rules*);
- k) Councillor Reports and Councillor Questions (*see sections 4.6.12 and 4.6.13 of these Rules*); and
- l) Urgent Business (*see section 4.6.14 of these Rules*).

## 4.6.2 Attendances and Apologies (including Leave of Absence)

A Councillor or Delegated Committee Member is required to submit an apology if they will knowingly be absent from a Council Meeting. Written apologies should be submitted to the Chief Executive Officer at the earliest possible time before non-attendance at any Council Meeting with a copy provided to the Mayor, the Executive Assistant to the Mayor and the Governance Unit. The apology will be noted in the Minutes of that Meeting.

Any Councillor may request a leave of absence in writing submitted to the Chief Executive Officer or Mayor and state the dates of each meeting for which leave is sought and reason for the leave. In accordance with section 35(4) of the *Local Government Act 2020*, Council must grant any reasonable request for leave. Requests for a leave of absence must be received by 12 noon, at least ten (10) business days prior to the Council Meeting at which leave is sought to ensure it is listed as a general report item within the Agenda.

Section 35(1)(e) of the *Local Government Act 2020* states that a Councillor will cease to hold office if they are absent from Council Meetings for a period of four consecutive months without leave obtained from the Council.

## 4.6.3 Mayoral Presentation

From time to time, the Mayor may give a short presentation or make a statement relating to issues of interest or importance to the municipality or the region.

## 4.6.4 Changes to the Order of Business

Once an Agenda has been prepared and sent to Councillors, the order of the business for that Meeting may only be altered by resolution of Council. This includes the request for an item to be brought forward (*see section 4.13 of these Rules*).

## 4.6.5 Deputations

A deputation wishing to be heard at a meeting of Council must make a written request to the Chief Executive Officer who will refer the request to Council for consideration. In order for requests to be considered, they must be submitted at least ten (10) working days prior to a Council Meeting.

If Council agrees to hear a deputation, it will not hear more than two speakers on behalf of any deputation and time limits will be set as to the length of the address prior to the meeting. Councillors may question the deputation on matters raised before Council for the purpose of clarification, but no discussion will be entered into.

The Chief Executive Officer must, in writing, advise the signatory of the written request (or, if more than one, the first signatory), of the date, time, venue and time limits applying for Council to hear the deputation.

#### 4.6.6 Inwards Correspondence

Unless otherwise directed by Council, the Chief Executive Officer determines what inwards correspondence should be placed before Council for its decision or information. Correspondence addressed to any Councillor personally which requires a decision of, or a direction from, Council must be referred by that Councillor to the Chief Executive Officer.

A regular report listing correspondence received by the Mayor and Councillors will be included in Council Meeting Agendas in Officer's Reports - Other. No correspondence can be read in full at any Council Meeting unless the Chair allows that an item or items of correspondence be so read.

#### 4.6.7 Officer's Reports – Routine and Statutory Planning Reports

Statutory Planning and routine reports will not be read in full at any Council Meeting unless Council resolves to the contrary. Routine reports include Documents for Sealing, Documents for Tabling and Petitions or Joint Letters received.

#### 4.6.8 Public Question Time

- a) Questions are limited to a maximum of three (3) questions per individual. Where time constraints deem it likely that not all questions can be answered within the time allowed for Question Time, the Chair at his/her discretion may determine only the first question may be presented verbally with others deferred to be managed in the same manner as public questions not verbally presented. Priority will be given to questions that relate to items on the Council Agenda for that meeting. Questions including any preamble should not exceed 300 words.
- b) All such questions must be received in writing on the prescribed form or as provided for on Council's website and at Council Meetings. Where there are more than three (3) questions received from any one individual person, the Chief Executive Officer will determine the three (3) questions to be considered at the meeting.
- c) All such questions must clearly note a request to verbally present the question and must be received by the Chief Executive Officer or other person authorised for this purpose by the Chief Executive Officer no later than:
  - i) the commencement time (7.00pm) of the Council Meeting if questions are submitted in person; or
  - ii) noon on the day of the Council Meeting if questions are submitted by electronic medium.
- d) A question can only be presented to the meeting if the Chair and/or Chief Executive Officer has determined that the question:
  - i) does not relate to a matter of the type described in section 3(1) of the *Local Government Act 2020* (confidential information);
  - ii) does not relate to a matter in respect of which Council or a Delegated Committee has no power to act;
  - iii) is not defamatory, indecent, abusive or objectionable in language or substance, and is not asked to embarrass a Councillor, Delegated Member or Council officer; and
  - iv) is not repetitive of a question already asked or answered (whether at the same or an earlier meeting).
- e) If the Chair and/or Chief Executive Officer has determined that the question may not be presented to the Council Meeting or Delegated Committee, then the Chair and/or Chief Executive Officer:
  - i) must advise the Meeting accordingly; and
  - ii) will make the question available to Councillors or Members upon request.
- f) The Chair shall call on members of the gallery who have submitted an accepted question to ask their question verbally if they wish.
- g) The Chair, Chief Executive Officer or delegate may then direct that question to be answered by a nominated Councillor or member of Council staff.
- h) No debate on, or discussion of, a question or an answer will be permitted other than for the purposes of clarification.



- i) A Councillor, Delegated Committee Member or member of Council staff nominated to answer a question may:
  - i) seek clarification of the question from the person who submitted it;
  - ii) seek the assistance of another person in answering the question; and
  - iii) defer answering the question, so that the answer may be researched and a written response be provided within ten (10) working days following the Meeting (the question thereby being taken on notice).
- j) Question time for verbal presentations is limited in duration to not more than twenty (20) minutes. If it appears likely that this time is to be exceeded then a resolution from Council will be required to extend that time if it is deemed appropriate to complete this item.
- k) The text of each question asked and the response will be recorded in the minutes of the Meeting.

#### 4.6.9 Officer's Reports – Other

Other reports will not be read in full at any Council Meeting unless Council resolves to the contrary. Other reports include those in relation to contracts, finance, budget, policy, strategy and any other matters requiring the consideration and a decision of Council.

#### 4.6.10 Petitions and Joint Letters

Petitions and Joint Letters are regularly received and tabled at Council Meetings for noting. Lodgement and other requirements are as follows:

- a) Petitions and joint letters received by Councillors and/or council officers must be lodged with the Chief Executive Officer for inclusion in an Agenda no later than 12 noon at least three (3) business days before a Council Meeting; and
- b) Petitions or joint letters received after the above deadline will be held over for inclusion in the Agenda of the next Council Meeting.
- c) A petition or joint letter:
  - i) may be submitted either in hard copy or in an on-line format provided that it is legible;
  - ii) cannot be defamatory, indecent, abusive or objectionable in language or content;
  - iii) cannot relate to matters beyond the powers of Council;
  - iv) must bear the whole of the petition or request upon each page of the petition; and
  - v) if in hard copy, must consist of single pages of paper and must not be pasted, stapled, pinned or otherwise affixed to any other piece of paper.
- d) Any petitions or joint letters that do not comply with sub-clause (c) or of these Rules will not be tabled at a Council Meeting.
- e) A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated Council may reply to the first signatory which appears on the petition (head petitioner).

The status and progress of petitions and joint letters received will be regularly reported against in the Council Meeting Agenda and Minutes until they have been fully addressed by Council officers. The difference between on-line and hard copy petitions will be indicated in the Council Meeting Agenda and Minutes.

#### 4.6.11 Notices of Motion

- a) A Notice of Motion must be in writing, dated and signed by the intending mover and lodged with the Chief Executive Officer no later than 12 noon at least three (3) business days before the meeting.
- b) A Notice of Motion cannot be accepted by the Chair unless the full text of motion has been listed on the Agenda for the Council meeting at which it is proposed to be moved.
- c) Where a Notice of Motion seeks to substantially affect the level of Council services, commit Council to expenditure in excess of \$5,000 that has not been included in the adopted Budget, commit Council to any contractual arrangement, or is likely to require more than five (5) days' work by a member of Council staff, then a formal report must be prepared and presented to Council in response to the Notice of Motion. Where practicable the report should be presented to next Council Meeting.

- d) The Chief Executive Officer must cause all Notices of Motion to be numbered sequentially, dated and entered in the Notice of Motion register in the order in which they were received.
- e) Except by leave of Council, Notices of Motion before any Council meeting must be considered in the order in which they were entered in the Notice of Motion register.
- f) If a Councillor who has given a Notice of Motion:
  - i) is absent from the Meeting; or
  - ii) fails to move the motion when called upon by the Chairperson.

any other Councillor may himself/herself move the motion. If the Notice of Motion is not moved (and seconded) it lapses.
- g) If a Councillor proposing a Notice of Motion wishes to amend the Notice of Motion, they may do so by seeking leave of Council to amend the Notice of Motion prior to it being seconded.
- h) Another Councillor can put forward an amendment for consideration, which must be dealt with in accordance with clauses 57 - 63 of this Local Law, except for confirmation of a previous resolution.
- i) If a Notice of Motion, whether amended or not, is lost, a similar motion cannot again be put before Council for a period of three (3) calendar months from the date it was lost.
- j) A Notice of Motion cannot be submitted in relation to a matter that was the subject of a rescission motion within three (3) calendar months of the rescission motion having been dealt with.
- k) A preamble to a Notice of Motion is an explanatory statement that explains the purpose of the Notice of Motion. A Councillor lodging a Notice of Motion must ensure that the content of any preamble provided remains factual. Reports from Councillors/Delegates & Councillor Questions

#### 4.6.12 Councillor Reports

At each Ordinary meeting, Councillors will have the opportunity to speak on any meetings, conferences or events which they have recently attended. The duration of any report from a Councillor will be limited to four (4) minutes.

If a Councillor chooses to speak, the name of the conference/event will be recorded in the minutes for that Meeting. If a Councillor requires any additional information to be listed in the minutes the Councillor must table the additional information at this point in the Meeting. Councillors may use this opportunity to table a list of conferences/events that they have attended since the last Council Meeting for inclusion in the Meeting Minutes without speaking on the item. Councillors may also table their views on matters discussed under Officer Reports and other Agenda items for inclusion in the Minutes. This tabled item must be electronically received by Governance no later than 12 noon the day following the Council meeting. Any item tabled under this clause will be included in the Minutes precisely as it is provided and no amendments will be made. A tabled report cannot be defamatory, indecent, abusive or objectionable in language or substance, or be used to specifically embarrass another Councillor or Council officer.

#### 4.6.13 Councillor Questions

There must be a question time at every Council Meeting to enable Councillors to address questions to members of Council staff. The duration of question time for each Councillor will be limited to fifteen (15) minutes. The Chair has the discretion to increase this time by a maximum of three (3) minutes in order to provide any questions asked with the opportunity of a response. Councillors may further table any additional questions which have not been asked. Responses to any tabled questions will be included in the Minutes of the Meeting.

Questions may be asked with or without notice but must not:

- a) relate to a matter of the type described in section 3(1) of the *Local Government Act 2020* (confidential information);
- b) relate to a matter in respect of which Council has no power to act;
- c) be defamatory, indecent, abusive or objectionable in language or substance, or be asked to specifically embarrass another Councillor, Delegated Member, Council officer or member of the public;
- d) be repetitive of a question already asked or answered (whether at the same or an earlier Meeting); or
- e) raise an issue which might more appropriately be dealt with by way of Notice of Motion.

An answer will only be given if the Chair has determined that the relevant question does not breach any of points a) to e) above.

A Councillor may contribute to an answer to a question made by a member of Council staff.

A member of Council staff is not obliged to answer a question without notice. A member of Council staff who elects to take a question on notice by indicating that they require further time to research their answer must ensure that a response is provided to Councillors within ten (10) working days following the meeting.

Council may:

- a) of its own volition; or
- b) upon the advice of a member of a Council staff;

resolve to close the Meeting to members of the public under section 66(5) of the *Local Government Act 2020* in order that an answer to a question asked by a Councillor may be given if the information is deemed to be confidential information under the Act.

Debate or discussion of questions or answers is not permitted and all questions and answers must be as brief as possible.

#### 4.6.14 Urgent Business

- a) Business which has not been listed on a Council Meeting Agenda may only be raised as urgent by resolution of Council.
- b) Notwithstanding anything to the contrary in these Rules, a Councillor (with the agreement of the meeting) may at a Council meeting submit or propose an item of Urgent Business if the matter relates to business which does not:
  - i) substantially affect the levels of Council service or;
  - ii) commit Council to expenditure exceeding \$5,000 and not included in the adopted Budget; or
  - iii) establish or amend Council policy; or
  - iv) commit Council to any contractual arrangement; or
  - v) require, pursuant to other policy determined by Council from time to time, the giving of prior notice.
- c) Business must not be admitted as urgent business unless it:
  - i) is deemed to be urgent business by Council; and
  - ii) cannot safely or conveniently be deferred until the next Council Meeting.

#### 4.6.15 Time Limit for Meetings

A Council Meeting or Delegated Committee Meeting must not continue longer than four (4) hours from its commencement unless a majority of Councillors present vote in favour of its continuance. If a continuance is agreed to extend the meeting after four hours then it will be limited to not more than one 30-minute extension.

In the absence of any continuance, the Meeting must stand adjourned to a time, date and place to be then and there announced by the Chair. (*See section 4.14 in these Rules.*)

### 4.7 RESPONSIBILITIES AT MEETING

#### 4.7.1 Chairing the Meeting

In accordance with sections 61 and 63 of the *Local Government Act 2020*, the Mayor must take the Chair at all Council Meetings at which they are present unless precluded from doing so because of a conflict of interest. If the Mayor is absent the Deputy Mayor must take the Chair and if both are absent, Council must elect one of the Councillors as Meeting Chair.

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

The Chair plays a significant role in good governance and facilitates orderly, respectful, transparent and constructive Meetings by ensuring all Councillors and Delegated Committee Members have the opportunity to be heard, that matters are adequately discussed, meeting procedures are followed and statutory requirements are complied with.

The Chair is an independent leader of Meetings and generally does not participate in debate or move and second motions except where provisions are made to do so within these Rules. Other specific duties and discretions of the Chair are outlined throughout these Rules.

#### 4.7.2 Addressing the Meeting

Each Councillor and Member at a Council Meeting has an obligation to contribute to good decision-making. This can be facilitated by reading the Council Meeting Agenda prior to the Meeting, seeking views of community members and demonstrating due respect and consideration to those views and the professional advice provided by Council officers in the Agenda, attending Meetings and participating in debate and discussion, demonstrating respect for the role of Chair and the rights of other Councillors and Members to participate and contribute to the decision-making process and conducting themselves in a professional and orderly manner.

Any Councillor, Member or person who addresses the Council Meeting must stand to speak and direct all remarks through the Chair. The Chair, however, has the discretion to permit any Councillor or person to remain seated while addressing the meeting. The Chair may address a Meeting, however if the Chair wishes to debate a particular motion or move any motion or amendment on any matter under discussion, they must advise Council of that intention and vacate the Chair on such occasions for the duration of the item under discussion.

If the Chair vacates the Chair, a temporary Chair must be appointed and take the Chair until the item has been voted on. In most cases this will be the Deputy Mayor unless the Deputy Mayor is absent from the Meeting.

Any person addressing the Chair may refer to the Chair as:

- Mayor or Deputy Mayor (as the case may be); or
- Chair; or
- Chairperson

When speaking, Councillors and members of Council staff must address each other by their titles of Councillor or Officer as the case may be.

#### 4.7.3 Chief Executive Officer

The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chair. The Chief Executive Officer should:

- a) immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
- b) advise if there are operational, financial or risk implications arising from a proposed resolution;
- c) help clarify the intent of any unclear resolution to facilitate implementation;
- d) Facilitate disclosures of interest, public question time and other administrative items outlined in these Rules; and
- e) on request, assist with procedural issues that may arise;

#### 4.7.4 Community

Council meetings are decision making forums and they are open to the community to attend and/or view proceedings. Community members may only participate in Council Meetings and may not address the Meeting outside of Public Question Time and in accordance with these Rules. Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

Member of the public in the Gallery are to remain seated with mobile phones switched to mute. Members of the public in the Gallery may display placards or posters within the Gallery but any posters or placards must not:

- a) display any offensive, indecent, insulting or objectionable item or words; or
- b) obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held; or
- c) obstruct the view or physically impede any person.

The Chair may order and cause the removal of any placard or poster that is deemed by the Chair to be objectionable, disrespectful or otherwise inappropriate. Members of the public must not interject or offensively act or gesticulate during the Meeting. The Chair may direct any member of the public to stop interjecting or acting offensively or disrespectfully. If that member of the public continues to interject or act offensively or disrespectfully the Chair may ask the Chief Executive Officer, an Authorised Officer or a member of the Victoria Police to remove the person from the Meeting.

Members of the public in the Gallery must not operate any recording or other equipment to reproduce sound or images at any Council Meeting without first obtaining consent from the Chief Executive Officer. This consent must be applied for at least three (3) business days prior to the Council Meeting by contacting Council's Governance Unit on telephone 8571 5100. This consent must not be unreasonably withheld but may be revoked at any time during the course of the relevant Meeting if it in any way impedes the business of the Council Meeting.

## 4.8 VOTING

### 4.8.1 Voting – How Determined

To determine an item before a Council Meeting, the Chair will call for any opposition from voting. If there is no opposition then the motion will be deemed as carried. If there is opposition, then debate will ensue (*see section 4.9.5 of these Rules*).

A Councillor has the right to abstain from voting. A Councillor who abstains from voting and remains in the Chamber will be deemed to have voted against the motion. Abstaining from voting does not constitute cause for debate. Any abstention from voting will be recorded in the Meeting Minutes.

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

Unless Council resolves otherwise, voting on any matter will be by a clear show of hands so that the Chair can easily record the count. The Chair must declare the result of the vote or division as soon as it is taken.

Councillors must remain seated in silence while a vote is being taken. The Chair may direct that the vote be recounted as often as may be necessary to be satisfied of the result.

### 4.8.2 Opposed Motions

The division of the vote for any motion that is debated or opposed, will automatically be recorded in the Meeting Minutes. (There is no need for any Councillor to call for a division.)

After each debated item the Chair will;

- a) first ask each Councillor wishing to vote for the item to raise a hand and, upon such request being made, each Councillor wishing to vote for the item must raise one of their hands. The Chair must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer) must record in the Minutes, the names of those Councillors for the item (in the affirmative); and
- b) then ask each Councillor wishing to vote against the item to raise a hand and, upon such request being made, each Councillor wishing to vote against the item must raise one of their hands. The Chair must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer) must record in the Minutes, the names of those Councillors against the item (in the negative).

If there is no debate, any Councillor may ask that his/her opposition to a motion adopted by the Meeting be recorded. It must then be recorded in the minutes of the Meeting.

### 4.8.3 Casting Vote

In the event of an equality of votes, the Chair has a casting vote, except in cases where the Act provides that a matter or amendment is to be determined by lot (*see section 4.7.10 in these Rules*).

## 4.9 MOTIONS AND AMENDMENTS

### 4.9.1 Form of Motion

A motion or an amendment must:

- a) relate to the powers or functions of Council;
- b) be in writing, if requested by the Chair; and
- c) except in the case of urgent business, be relevant to an item of business on the Agenda.

A motion or amendment must not be defamatory or objectionable in language or nature. The Chair may refuse to accept any motion or amendment which contravenes this clause.

If a Councillor wishes to move an alternate motion to an officer's recommendation as placed in the Council Meeting Agenda, and where the motion is lengthy, complicated or the exact intention of the motion is unclear, the Chair may request the Councillor to submit their motion in writing. The Chair may suspend the Meeting while the motion is being written or request Council to defer the matter until the motion has been written, allowing the Meeting to proceed uninterrupted.

### 4.9.2 Moving a Motion

The procedure for any motion or amendment is:

- a) the mover must state the **substance** of the motion or amendment, and then move it without speaking to it;
- b) the Chair must call for a seconder unless the motion is a call to enforce a point of order; and
- c) if the motion is not seconded, the motion will lapse for want of a seconder.

### 4.9.3 Withdrawing a Motion

Before any motion is put to the vote, it may be withdrawn by the leave of Council or by resolution of Council.

### 4.9.4 Unopposed Motion or Amendment

If a motion or an amendment is seconded the Chair must first ask if there are any questions and then if there is any opposition (*see section 4.8 in these Rules*).

If no Councillor indicates opposition, it must be declared to be carried. The mover of any motion once confirmed may, by leave of the Chair, talk to that motion for two (2) minutes. The Chair may permit other Councillors to speak on a matter after the mover for a maximum of two minutes each.

### 4.9.5 Debating a Motion

Debate must always be relevant to the question before the Chair, and if not, the Chair must request the speaker to confine debate to the subject matter. If after being told to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may disallow the speaker any further opportunity to debate or comment in respect to the matter before the Chair. Adequate debate is required where a matter is contentious in nature. In such cases, every Councillor must be given the opportunity to debate (*see section 4.11.1 in these Rules*).

#### 4.9.6 Debate from the Chair

The Chair of the meeting should seek to refrain from debate on motions. The Chair may however choose to exercise a right to speak in favour or against a motion and where this is the case, the Chair will stand to speak to distinguish between this role and that of the Chair. Where the Chair wishes to move or second a motion, they must temporarily vacate the Chair before the motion is considered by Council.

#### 4.9.7 Adjourned Debate

A motion to adjourn debate is a procedural (formal) motion as follows:

"That the debate be adjourned"

The motion may state a date and time for resumption of the debate. Debate can be adjourned indefinitely.

The effect of the motion is that the particular matter being debated is adjourned, but that the Meeting still continues to deal with all other business. If debate is adjourned indefinitely, some indication must be given to the Chief Executive Officer as to when the matter should be re-listed, otherwise it will be decided at the discretion of the Chief Executive Officer, or upon the subsequent resolution of Council, whichever occurs first (*see section 4.10 in these Rules*).

#### 4.9.8 Resumption of Adjourned Debate

The business to which the debate relates must be placed on the Council Meeting Agenda to which it is adjourned. Adjourned business should have priority over any other business except formal business. If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless they have already spoken to the motion or amendment.

#### 4.9.9 Course of Debate of Opposed Motion

If any Councillor indicates opposition to a motion which has been seconded:

- a) the Chair must call upon the mover to address the Meeting;
- b) after the mover has spoken, the Chair must call upon the seconder to address the Meeting;
- c) after the seconder has addressed the meeting (or after the mover if the seconder does not wish to speak) the Chair must call upon the first opposition to address the Meeting;
- d) after the mover, seconder and first opposition have had the opportunity to address the Meeting, the Chair will call for speakers for and against the motion in alternate sequence until the sequence of speakers is exhausted;
- e) a Councillor may speak once on the motion except for the mover of the motion who has a right of reply after which the motion must be put to the vote (*see section 4.9.1 in these Rules*);
- f) motions must be clear and unambiguous and not be defamatory or objectionable in language or nature.

A Councillor calling the attention of the Chair to a point of order is not regarded as speaking to the motion. Except that the mover of an unamended motion has the right of reply and that any Councillor may take a point of order or offer a personal explanation, a Councillor must not speak more than once to the same motion or amendment (*see section 4.12 in these Rules*).

#### 4.9.10 Right of Reply

The mover of an original motion which has not been amended may, once debate has been exhausted, exercise a right of reply to matters raised during the debate. After right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate. A Councillor must not digress from the subject matter of the motion or business under discussion. No new debate or subject matter is to be introduced with a right of reply.

#### 4.9.11 Agreed Alterations of Motion

With the leave of the Chair, both the mover and seconder of a motion may agree to an alteration to the original motion proposed by any other Councillor. This would not then necessitate the recording of an amendment into the Meeting Minutes as the alteration would then form part of the substantive motion. (i.e., no notice need be given of any amendment in this instance.)



#### **4.9.12 Proposing Amendment(s) to a Motion**

An original motion, having been moved and seconded, may be amended by any Councillor other than the mover and seconder of the original motion by leaving out, inserting or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole. (An amendment to an original motion should be designed to improve the original motion without contradicting it.) Any Councillor moving an amendment to a motion will be allocated thirty (30) seconds to explain the reasons for the amendment. This explanation will not entertain the benefits or detriments of the amendment or the original motion.

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

A second or subsequent amendment cannot be moved until the immediately preceding amendment is disposed of. If any Councillor intends to move a second or subsequent amendment, he or she must give notice of that intention prior to the right of reply of the original motion being exercised. A Councillor cannot move more than two (2) amendments in succession.

#### **4.9.13 Debating an Amendment to a Motion**

Any Councillor may address the meeting once on any amendment, whether or not they have spoken to, moved or seconded the original motion, but debate must be confined only to the amendment. (If the mover or seconder of the original motion wishes to speak to the amendment, they should indicate that they intend to speak only to the amendment and this does not bar them from the right of reply or debate on the original motion once the amendment is resolved.)

#### **4.9.14 Right of Reply to an Amendment to a Motion**

No right of reply is available to the mover (only) of an amendment when an amendment is before Council.

#### **4.9.15 An Amendment to a Motion Once Carried**

If an amendment is adopted it becomes part of the amended and substantive motion which must still be put to the vote by the Chair but only after Councillors who did not speak to the original (or substantive) motion have exercised their right to do so. (In this instance the mover of the original motion must be offered the right of reply to the original or substantive motion. This is affording the original mover of the substantive motion natural justice.)

#### **4.9.16 Foreshadowing a Motion**

At any time during debate, a Councillor may foreshadow a motion to inform the Council of their intention to move a motion at a later stage in the Meeting, but this does not extend any special rights to the foreshadowed motion. A foreshadowed motion may be prefaced with a statement that in the event a particular motion before the Chair is resolved in a certain way a Councillor intends to move an alternative or additional motion. A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting. The Chief Executive Officer or other person authorised by the Chief Executive Officer would not be expected to record a foreshadowed motion in the minutes until the foreshadowed motion is formally moved but may do so if thought appropriate.

#### **4.9.17 Separation of a Motion**

Where a motion contains more than one part, a Councillor may request the Chair to put the motion to the vote in separate (several) parts. Where a motion contains several parts/segments or is complicated, it may be separated to avoid difficulties, particularly if different Councillors have differing views about various parts of the motion or conflicts of interests arising among Councillors lead to an inability to maintain a quorum.

#### **4.9.18 Deferral of a Motion**

Council may defer an item until later in the Meeting or until another Meeting as appropriate if further consideration or clarification is required prior to a decision being made. The decision to defer a motion is a substantive motion and may be debated.



#### 4.9.19 Call for Supporting Documentation

A Councillor may request at a Council Meeting to immediately make available any documents kept in the municipal offices and relevant to the business being considered. Upon any request being made, the Chief Executive Officer must use their best endeavours to make the documents available.

#### 4.9.20 Rescission Motion Notification

A Rescission Motion is a motion to reverse a previous decision of Council. Where a Rescission Motion is put, the Councillor should also include an Alternate Motion that Council will then consider as a second part to the Motion should the primary part (rescission) be passed by Council. Any Councillor may propose a Notice of Rescission Motion at the next subsequent meeting provided:

- a) the resolution proposed has not been acted on (*see clause 74*). For this reason, Councillors must foreshadow to the CEO their INTENTION to move a Rescission Motion before 12.00 noon on the day after the original pertaining motion was moved.
- b) the Notice of Rescission Motion is received by the Chief Executive Officer in writing no later than 12 noon the Wednesday prior to the next subsequent meeting.
- c) all Councillors have had 3 business days prior notice of the notice of rescission.

A Rescission Motion listed on the agenda may be moved by any Councillor present but may not be amended. A motion to rescind or alter a previous resolution must be passed by a majority of elected members. A second or subsequent notice to rescind or alter an earlier resolution must not be accepted by the Chief Executive Officer until a period of three (3) months (ninety (90) days) has elapsed since the date of the Meeting at which the original motion of rescission or alteration was dealt with, unless Council resolves that the matter be dealt with at a future meeting.

#### 4.9.21 When a Resolution is Acted On

A resolution, or part thereof, will be considered as having been acted on:

- a) once its details have been formally communicated in writing to either internal or external parties affected by or reliant on the resolution; or
- b) where a statutory procedure has been carried out, so as to vest enforceable rights in, or obligations on, Council or any other person.

While the Chief Executive Officer or other relevant member of Council staff may initiate action or cause action to be initiated on any Council resolution, or part thereof, at any time after the close of the Meeting at which it was carried, generally no action will be taken until 12.00 noon following the day of the Council Meeting at which the motion was moved.

However, if an *intention to rescind a motion* is formally foreshadowed to the Chief Executive Officer or other member of Council staff no later than noon on the day following the resolution, then the Chief Executive Officer or relevant member of Council staff will ensure that no action in relation to that resolution, in full or in part, is taken unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

Where a resolution can be broken down into parts and some parts of the resolution have not been acted upon, then any proposed change to those remaining parts is to be treated as an amendment of the resolution unless the substance of the change is to reverse the resolution when considered as a whole.

### 4.10 PROCEDURAL (FORMAL) MOTIONS

A procedural motion is one dealing with the conduct of the Meeting itself and takes precedence of a substantive motion.

#### 4.10.1 Moving a Procedural Motion

Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chair. A procedural motion does not require the Chair's call.

The mover/seconded of a procedural motion must not have moved, seconded or spoken to the current matter being debated or any amendment of it before the Chair. A procedural motion cannot be moved by the Chair.

### 4.10.2 Debate and Amendments to Procedural Motions

Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.

Note: Deferral of a motion is not a procedural (formal) motion and maybe debated. Unless otherwise provided a procedural motion cannot be amended.

### 4.10.3 Closure of a Motion (The Motion be Put)

A motion *"That the motion now be put"*:

- a) is a procedural motion which, if carried, requires that the original motion must be put to the vote immediately without any further debate, discussion or amendment;
- b) if carried in respect to an amendment, requires that the amendment be put to the vote immediately without any further debate or discussion and if lost allows debate on the original motion to continue; and
- c) if lost, allows debate to continue unaffected.

The Chair has the discretion to reject such a motion for closure if the motion proposed has not been sufficiently debated. A closure motion may not be put until the mover, seconder and first opposition have spoken on a matter. If the Chair rejects that a motion be put, then debate on the motion must continue as it was left (unaffected).

### 4.10.4 The Previous Question

A motion *"That the motion now not be put"*:

- a) is a procedural motion which, if carried, automatically disposes of a matter without a vote being taken (until it is placed on the Agenda for a later meeting) and the Meeting may then proceed to the next business without any further discussion or amendment;
- b) is prohibited when an amendment is before Council; and
- c) if lost, allows debate to continue unaffected.

### 4.10.5 Proceed to Next Question

A motion *"That the Meeting proceeds to the next business"*

- a) is a procedural motion which, if carried in respect of an original motion, requires that the Meeting move immediately to the next business without any further debate, discussion, amendment or vote being taken on it;
- b) if carried in respect to an amendment, Council considers the motion without reference to the amendment; and
- c) if lost, allows debate to continue unaffected.

### 4.10.6 Adjournment of Debate

A motion *"That the motion and/or amendments now before the meeting be adjourned until a later hour or date"*:

- a) is a procedural motion which, if carried in respect of an original motion or amendment, requires that the Meeting disposes of the matter before the Chair so that debate can resume at a later hour and/or date and the Meeting moves on to the next item of business on the Agenda; and
- b) if lost, allows debate to continue unaffected.

### 4.10.7 Adjournment of Meeting

A motion *"That the meeting be adjourned until a later hour or date"*:

- a) is a procedural motion which if carried in respect of an original motion or amendment, requires that the Meeting be adjourned to a later hour and/or date; and
- b) if lost, allows debate to continue unaffected.

## 4.10.8 That the Question Lay on the Table

A motion "*That the question lay on the table*":

- a) is a procedural motion which, if carried in respect of an original motion or amendment, ceases any further discussion or voting on the matter until Council either:
  - i) resolves to take the question from the table at the same Meeting; or
  - ii) places the matter on an Agenda and Council resolves to take the question from the table; and
- b) if lost, allows debate to continue unaffected.

## 4.11 SPEAKING TO THE MEETING

### 4.11.1 Speaking Times

A Councillor must not speak longer than the time set out below with only the stipulated extensions being granted by Council.

- a) a mover of a motion – five (5) minutes with only a single two (2) minute extension permitted;
- b) the seconder of a motion – four (4) minutes with only a single two (2) minute extension permitted;
- c) any other Councillor – four (4) minutes with only a single two (2) minute extension permitted; and
- d) the mover of a motion when exercising their right of reply – four (4) minutes (no extensions permitted).

Following a Council resolution on an unopposed motion, a Councillor may speak for the duration of time set out below:

- a) the mover – two (2) minutes; and
- b) any other Councillor once confirmed – two (2) minutes.

Extensions of speaking time are set out above however a further extension of speaking time may be granted by the Chair. Only one (1) extension is permitted for each speaker on any motion. The Chair has the discretion to alter an extension to speaking times if they deem it to be necessary to the subject matter.

### 4.11.2 Councillor Must Stand When Speaking

Except in the case of sickness or infirmity, a Councillor must stand when speaking at a Council Meeting. The Chair may remain seated when speaking at a Council Meeting. It is not necessary to stand when speaking at a meeting that is not a Council Meeting under the terms of these Rules.

### 4.11.3 Interruptions, Interjections and Relevance

A Councillor must not be interrupted except by the Chair or upon a point of order or personal explanation. If a Councillor is interrupted by the Chair or upon a point of order then they must take their seat and remain silent until the Councillor raising the point of order has been heard and the question disposed of (*see sections 4.9.5 and 4.12 in these Rules*).

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

## 4.12 POINTS OF ORDER

A point of order is taken when a person formally draws the attention of the Chair of a Meeting to an alleged irregularity in the proceedings such as a speaker's remarks being irrelevant to the subject matter or to an act of disorder or a Councillor allegedly being out of order.

### 4.12.1 Procedure for a Point of Order

A Councillor who is addressing the Meeting must not be interrupted unless called to order.

A point of order is taken by standing and stating, "*Point of Order*" and then providing a brief explanation as to why the point of order has been called. The point of order must be taken immediately after it has been brought to the attention of the Chair. A point of order takes precedence over all other business, including procedural motions.

When called to order, a Councillor must sit down and remain silent until the point of order is decided unless they are requested by the Chair to provide an explanation. The Chair may adjourn the Meeting to consider a point of order but must otherwise rule upon it as soon as it is taken. All matters before Council are suspended until the point of order is decided. The decision of the Chair in respect to a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present at the Meeting support a motion of dissent.

A valid point of order may be raised in relation to:

- a) a motion which has not been accepted by the Chair;
- b) a question of procedure;
- c) a Councillor who is not conducting themselves in accordance with the Code of Conduct - Councillors;
- d) debate that is irrelevant to the matter under consideration;
- e) a matter that is outside the powers of Council; or
- f) any act of disorder.

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

#### 4.12.2 Motion of Dissent

When a motion of dissent is moved and seconded, the Chair must leave the Chair and a temporary Chair must take their place.

The temporary Chair must invite the mover to state the reasons for their dissent and the Chair may then reply. The temporary Chair then puts the motion in the following form:

*"That the Chair's ruling be upheld".*

- a) if the vote is carried (in the affirmative), the Chair resumes the Chair and the Meeting proceeds;
- b) if the vote is not carried (in the negative), the Chair resumes the Chair, reverses his or her previous ruling and then proceeds.

The defeat of the Chair's ruling is in no way a motion of censure or non-confidence and should not be so regarded by the Meeting (see section 4.7.1 in these Rules).

### 4.13 SUSPENSION OF STANDING ORDER

The provisions of these Rules may be suspended for a particular purpose by resolution of Council.

#### 4.13.1 Changing the Order of Business

The suspension of the standing order (of the Agenda) should be used to change the order of business and bring items listed in the Agenda forward or backward if required and when it is in the best interest of the flow of business for that Meeting.

An appropriate motion would be:

*"That the standing order be suspended to bring item \_\_\_ forward".*

Once the item has been disposed of and before the next item can be heard the resumption of the standing order will be necessary. An appropriate motion would be:

*"That the standing order be resumed".*

#### 4.13.2 Suspension of the Standing Order for the Purpose of Discussion

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

An appropriate motion would be:

*"That the standing order be suspended to enable discussion on \_\_\_\_\_".*

Once the discussion has taken place and before any motion can be put the resumption of the standing order will be necessary.

An appropriate motion would be:

*"That the standing order be resumed".*

No motion may be accepted by the Chair or be lawfully dealt with during any suspension of the standing order unless resolved by Council to do so.

## 4.14 ADJOURNMENTS

### 4.14.1 Adjourning a Meeting

Once a Meeting is declared open, Council may, from time to time, resolve to adjourn the Meeting if:

- a) a quorum is not present within half an hour after the time appointed for the Meeting;
- b) at any time throughout a meeting a quorum is lost;
- c) the Meeting becomes excessively disorderly and order cannot be restored or retained;
- d) there is a need to allow for additional information to be presented to a Meeting; or
- e) any other situation arises where an adjournment could aid the progress of the Meeting.

A Meeting cannot be adjourned for a period exceeding seven days from the date of the adjournment. An appropriate motion would be:

*"That the Meeting be adjourned until a \_\_\_\_\_" time and date specified". (which does not exceed seven (7) days)*

No discussion is allowed on any motion for adjournment of the Meeting, but if on being put the motion is lost, the subject then under consideration for the next item on the Agenda or any other matter that may be allowed precedence must be resolved before any subsequent motion for adjournment is made.

### 4.14.2 Notice for an Adjourned Meeting

If a Meeting is adjourned, the Chief Executive Officer must ensure that the Agenda for such a Meeting is identical to the Agenda for the Meeting which was resolved to be adjourned. Except where a Meeting is adjourned until later on the same day, the Chief Executive Officer must give all Councillors written notice of a new date for the continuation of the adjourned Meeting and every reasonable attempt must be made to advise the public of the new Meeting date. Where it is not practical to provide written notice to Councillors because time does not permit that to occur then a reasonable attempt must be made to contact each Councillor.

### 4.14.3 Lapsed Meeting

A Meeting is deemed to have lapsed if a meeting does not commence and therefore no resolution can be carried to adjourn the Meeting. If a Council Meeting lapses, the undisposed-of business must be included in the Agenda for the next Council Meeting. The business of the lapsed Meeting must be dealt with prior to any other business, and in the same order as the original Meeting papers.

## 4.15 CONDUCT DURING A COUNCIL MEETING

The provisions of these Rules are applicable to all Council Meetings and Delegated Committee Meetings and any other public meetings conferred under the Act which are called by the Mayor or Council, with appropriate modifications. [Section 2.14](#) does not prevent any person from addressing a meeting if permitted to do so by the Chair.

Also, section 19(1)(b) of the Local Government Act 2020, provides the power to the Mayor to direct a Councillor, subject to the any procedures or limitations specified in these Rules, to leave a Council Meeting if the behaviour of the Councillor is preventing the Council from conducting its business.

#### 4.15.1 Councillor Conduct

Councillors must conduct themselves in a courteous, orderly and respectful manner and must respect the authority of the Chair at all times. Councillors must adhere to the Code of Conduct - Councillors at all times.

Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:

- a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chair has warned the Councillor to cease that behaviour; or
- b) the Chair (if the Mayor), under section 19 of the Act, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or for the balance of the Meeting.

Where Council suspends a Councillor for a portion of a Meeting or the Chair (if the Mayor) directs a Councillor to leave for the remainder of the Meeting as above, the Councillor will take no active part in the portion of the Meeting from which they have been suspended. If a Councillor has been suspended from a meeting or directed to leave by the Chair (if the Mayor), the Chair may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

#### 4.15.2 Ordering Withdrawal of Remark

Whenever any Councillor makes use of any expression or remark that is disorderly or capable of being applied offensively to any other Councillor or member of Council staff, the offending Councillor must be required by the Chair to withdraw the expression or remark and to make a satisfactory apology to the Meeting. The Chair may require a Councillor to withdraw any remark which is defamatory, indecent, abusive or offensive in language or substance.

A Councillor required to withdraw a remark must do so immediately without qualification or explanation. Any Councillor using defamatory, indecent, abusive or offensive language, and having been twice called to order or to apologise for such conduct and refusing to do so, is guilty of an offence.

#### 4.15.3 Personal Explanation

A Councillor may, at a time convenient to Council, make a brief personal explanation in respect of any statement (whether made at a Council meeting or not) affecting him or her as a Councillor.

A personal explanation arising out of a statement at a Council Meeting must be made as soon as possible after that statement was made. A personal explanation must not be debated except upon a motion to censure the Councillor who has made it.

#### 4.15.4 Public Conduct

Members of the public must not interject or take part in the debate and silence must be maintained in the Gallery at all times.

#### 4.15.5 Call to Order/Removal from Council Chamber

The Chair may call to order any person present in the Council Chamber whose actions are disruptive to the business of Council and are impeding its orderly conduct. If thereafter a person continues to impede the conduct of business, the Chair may order them to leave the Council Chamber for a period of time or for the remainder of the Meeting. The Chair may ask any Authorised Officer or member of Victoria Police to remove any person from the Council Chamber who acts in breach of these Rules or whom the Chair has ordered to be removed from the Chamber.

#### 4.15.6 Chairperson May Adjourn Disorderly Meeting

If the Chair is of the opinion that disorder among the Councillors or in the Gallery makes it desirable to adjourn the Meeting, they may adjourn the Meeting to a later time on the same day, or to some later day and time prior to the next Council Meeting. *See section 4.14 in these Rules.*

## 4.15.7 Breach of Conduct Provisions at Council Meetings

Any person who refuses to leave the Council Chamber after being ordered to do so by the Chair is guilty of an offence under the Governance Local Law No. 1 of 2020.

## 4.16 PROVISION TO RECORD COUNCIL MEETINGS

The Chief Executive Officer (or other person authorised by the Chief Executive Officer) may conduct a live webcast and recording of the proceedings of a Council Meeting. Recordings will be retained as a public record of the meeting and are available to the public for viewing on [www.greaterdandenong.com](http://www.greaterdandenong.com).

Members of the public are advised (via appropriate signage) that the Meeting is being filmed and is streamed live and as an archive on Council's website [www.greaterdandenong.com.au](http://www.greaterdandenong.com.au). Members of the public are advised by venue signage that while filming, although all care is taken to maintain a person's privacy, as an attendee in the Gallery, they may be recorded on the webcast.

Members of the public should note that webcasts supplied by Greater Dandenong City Council or made available on [www.greaterdandenong.com](http://www.greaterdandenong.com) are the only official audio-visual recording of the Greater Dandenong City Council Meeting process.

### 4.16.1 Consent Required to Film or Photograph Council Meetings

Media representatives, with the consent of the Chief Executive Officer, or person authorised by the Chief Executive Officer, may be permitted to record any part of a Council Meeting. This consent must be applied for at least three (3) business days prior to the Council Meeting by contacting Council's Governance Unit on telephone 8571 5100. This consent must not be unreasonably withheld but may be revoked at any time during the course of the relevant Meeting if it in any way impedes the business of the Council Meeting.

## 4.17 ELECTION OF THE MAYOR

### 4.17.1 When Required

Under the *Local Government Act 2020*, a Mayor is to be elected at a Council Meeting no later than one month after the date of a general election. Before the election, a Council must determine by resolution whether the Mayor is to be elected for a one (1) year or two (2) year term. If the Mayor is elected for a one (1) year term, the next election of the Mayor must be held on a day to be determined by Council that is as close to the end of the one (1) year term as reasonably practicable. If the Mayor is elected for a two (2) year term, the next election of the Mayor must be held on a day to be determined by Council that is as close to the end of the two (2) year term as reasonably practicable.

The Mayor is to be elected within one month after any vacancy in the office of Mayor occurs.

### 4.17.2 Outgoing Mayor

The outgoing Mayor will give an outgoing speech at the last Council Meeting of their mayoral term. There will be no time provided at the Council Meeting held for the election of the Mayor for a speech for the outgoing Mayor. The Council Meeting held for the election of the Mayor will be focused on the new Mayor and the term ahead.

### 4.17.3 Eligibility

Any Councillor is eligible for election or re-election to the office of Mayor.

### 4.17.4 Agenda Content

The Agenda for the Council Meeting for the election of the Mayor must include:

- a) the appointment of the second temporary Chair;
- b) the election of the Mayor;

- c) the election of the Deputy Mayor;
- d) appointments of Council representatives to Committees, Peak Industry Bodies, regional and community-based organisations; and
- e) the fixing of the dates, times and place of all Council meetings for a twelve-month period.

#### 4.17.5 First Temporary Chair (Returning Officer)

The Chief Executive Officer will be the first temporary Chair of the Council Meeting at which the election of the Mayor is to be conducted but will have no voting rights. In other words, the Chief Executive Officer will be the Returning Officer for the election of the Mayor.

#### 4.17.6 Second Temporary Chair

The Chief Executive Officer must invite nominations for a second temporary Chair. If there is only one nomination, the candidate nominated is deemed to have been elected. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates by a show of hands (or by such other method as Council determines), and the candidate receiving a majority of the votes must be declared to have been duly elected.

#### 4.17.7 Nominations for Office of Mayor

The second temporary Chair must invite nominations for the office of Mayor. If there is only one nomination (which must be seconded), the candidate nominated is deemed to be elected Mayor until the next Council Meeting to elect the Mayor.

#### 4.17.8 Method of Voting

The election of the Mayor will be carried out by a show of hands unless determined by lot.

#### 4.17.9 Determining the Election of Mayor

If there is more than one nomination (each of which must be seconded), the Councillors present at the Meeting must vote for one of the candidates by a show of hands. In the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected.

In the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The Councillors present at the Meeting must then vote for one of the remaining candidates by a show of hands.

If one (1) 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 by a show of hands 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.

In the event of two (2) or more candidates having an equality of votes and one (1) of them having to be declared:

- a) a defeated candidate; or
- b) duly elected;

the temporary Chair shall have no second or casting vote, and the result will be determined by lot. *See clause 134 – Determining by Lot.*

*Note: Any Councillor nominated may refuse nomination.*

#### 4.17.10 Determining By Lot

If a lot is required, the Chief Executive Officer will conduct the lot and the following provisions will apply:

- a) each candidate shall draw one (1) lot;



- b) the order of drawing lots shall be determined by the alphabetical order of the surname of the Councillors who received an equal number of votes, except that if two (2) or more such Councillors' surnames are identical, the order shall be determined by the alphabetical order of the Councillors' first name;
- c) as many identical pieces of paper as there are Councillors who received an equal number of votes shall be placed in a receptacle provided by the Chief Executive Officer;
- d) If the lot is being conducted to determine which candidate is to be duly elected, the word 'Elected' shall be written on one (1) of the pieces of paper and the Councillor who draws the paper with the word 'Elected' written on it shall be declared to have been duly elected.

#### 4.17.11 Mayor to Take Chair

After the election of the Mayor is determined, the Mayor must take the Chair. The Mayor must take the Chair at all meetings of Council at which he or she is present unless precluded from doing so because of a conflict of interest.

#### 4.17.12 Election of Deputy Mayor

Under section 27 of the *Local Government Act 2020*, Council must elect a Deputy Mayor. Clauses 2.17.1 - 2.17.10 above apply to the election of a Deputy Mayor as if any reference in those sections to the Mayor was a reference to the Deputy Mayor.

### 4.18 MINUTES

#### 4.18.1 Keeping of Minutes

The Chief Executive Officer is responsible for arranging the keeping of the Minutes on behalf of Council. Each item in the Minutes must be clearly headed with a subject title and allocated a minute number. Minutes must be consecutive, commencing at one (1) at the beginning of each four (4) year term of Council. The Minutes must be signed by the Chair of the Meeting at which they have been confirmed.

#### 4.18.2 Content of Minutes

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:

- a) the date and time the Meeting was commenced, adjourned, resumed and concluded;
- b) the names of Councillors and whether they are PRESENT, an APOLOGY, or have obtained a LEAVE OF ABSENCE or other details as provided;
- c) the names and organisation titles of members of Council staff in attendance;
- d) arrival and departure times (including temporary departures) of Councillors during the course of the Meeting;
- e) each motion and amendment moved, including the mover and seconder of the motion or amendment;
- f) the outcome of every motion and amendment, whether it was put to the vote and the result (namely, CARRIED, LOST, WITHDRAWN, LAPSED FOR THE WANT OF A SECONDER, or AMENDED);
- g) where there is debate of an item, a table of the names of every Councillor and the way their vote was cast (either FOR or AGAINST a motion);
- h) details of a failure to achieve or maintain a quorum and any adjournment whether as a result or otherwise;
- i) a summary of all deputations made to Council;
- j) a summary of reports from Councillors/Delegates and any responses provided at the Meeting;
- k) the time and reason for any adjournment of the Meeting or suspension of Standing Orders;
- l) closure of the Meeting to members of the public and the reason for such closure as required under the provisions of the *Local Government Act 2020*;
- m) disclosure of any conflicts of interest made by a Councillor or member of staff; and
- n) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the Meeting or the reading of the minutes.

*Note: Debate on items is not recorded within the Minutes but is available via webcast on [www.greaterdandenong.com](http://www.greaterdandenong.com).*

During preparation of the Minutes, Council officers may, from time to time, correct minor typographical errors, without changing the intent of those minutes. A Council resolution is not required to correct minor typographical errors.

### 4.18.3 Confirmation of Minutes

Confirmation of the Minutes of a Council Meeting is a formal declaration that the Minutes are an accurate record of that meeting. Advice that the Minutes are available must be provided to all Councillors no later than 72 hours before the next scheduled Meeting. At every Council Meeting the Minutes of the preceding meeting(s) must be listed on the Agenda for confirmation. Minutes must be confirmed by resolution of Council. The motion confirming the Minutes can be moved and seconded by any Councillor who was present at the Meeting and believes the minutes to be an accurate record of that meeting. Following confirmation of the Minutes, with or without amendment, they must be signed by the Chair of the Meeting at which they were confirmed.

### 4.18.4 Objection to Confirmation of Minutes

If a Councillor is dissatisfied with the accuracy of the Minutes, they must:

- a) state the item or items with which they are dissatisfied;
- b) propose a motion clearly outlining the alternative wording to amend the Minutes; and
- c) state the item(s) objected to separately in the order in which it (or they) appear in the Minutes.

No discussion or debate on the confirmation of the Minutes will be permitted, except where their accuracy as a record of the proceedings of the Meeting to which they relate, is questioned.

### 4.18.5 Deferral of Confirmation of Minutes

Council may defer the confirmation of the Minutes until later in the Meeting or until the next meeting as appropriate.

## 4.19 PROCEDURE NOT PROVIDED FOR

In all cases not specifically provided for within these Rules, reference must be sought from the rules, forms and usages of the Legislative Council of the Victorian Parliament so far as the same are capable of being applied to Council Meeting proceedings.

## 4.20 SUSPENSION OF MEETING PROCEDURE

The operation of any clause of Chapter 2 of these Rules may be suspended temporarily at a Council Meeting by a majority of Councillors present resolving to so suspend it, unless such suspension of operation would be inconsistent with the *Local Government Act 2020*. A reason for the proposed suspension of the operation of any clause in Chapter 2 of these Rules must be given in the motion to suspend the operation of the clause.

## 4.21 PROVISIONS MADE FOR REMOTE COUNCIL MEETINGS

In the event that Council needs to conduct a Council Meeting remotely, such as during a pandemic or emergency situation (as experienced throughout the COVID-19 pandemic in 2020), a protocol will be provided to all participants of the Council Meeting outlining how the meeting is to be conducted and what guidelines participants must follow to ensure a consistent, transparent and orderly approach is maintained throughout the remote Council Meeting. All reasonable information technology support and advice will be provided to participants. These Governance Rules apply to all remote Council Meetings with the one exception that participants of a remote Council Meeting are not required to stand when they address the Chair or the Meeting. Protocols will change from time to time as information technology changes and advances and remote Council Meeting protocols are not formally part of these Rules.

## CHAPTER 5 – OTHER MEETINGS OF COUNCIL

### 5.1 JOINT MEETINGS OF COUNCILS

Section 62 of the *Local Government Act 2020* provides for Joint Meetings of Councils. Section 62 of the Act states that:

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

Unless otherwise stated within these Rules, the Chapters 1, 2, 3, 5 and 6 and of these Rules apply to all Joint Meetings of Councils. Chapter 4 of these Rules may apply to a Joint Meeting of Councils if Members of that Joint Meeting resolve to adopt Chapter 4 of these Rules for the purposes of that Meeting.

### 5.2 DELEGATED COMMITTEES

Section 63 of the *Local Government Act 2020* provides for Delegated Committees. Section 63 of the Act states that:

- (1) A Delegated Committee established by a Council:
  - (a) must include at least 2 Councillors; and
  - (b) may include any other persons appointed to the Delegated Committee by the Council who are entitled to vote.
- (2) A Meeting of a Delegated Committee established by a Council must be chaired by:
  - (a) a Councillor appointed by the Council or the Mayor to chair meetings of the Delegated Committee; or
  - (b) if the Councillor appointed by the Council or the Mayor to chair meetings of the Delegated Committee is not present at the meeting, a Councillor who is present at the Meeting and is appointed by the Members of the Delegated Committee who are present at the meeting.
- (3) Section 61 applies to a Meeting of a Delegated Committee as if the Members were Councillors.

Unless otherwise stated within these Rules, Chapters 1-6 of these Rules apply to Delegated Committee Meetings of Council.

### 5.3 JOINT DELEGATED COMMITTEES

Section 64 of the *Local Government Act 2020* provides for Joint Delegated Committees. Section 64 of the Act states that:

- (1) Two or more Councils may resolve to establish a Joint delegated committee.
- (2) A Joint Delegated Committee is a delegated committee of each Council that has resolved to establish the joint delegated committee for the purposes of this Act and the provisions of this Act, except section 61(3), (4) and (5)(d), apply accordingly.
- (3) A Joint Delegated Committee must include at least one Councillor from each of the Councils that has resolved to establish the Joint Delegated Committee.

- (4) A meeting of a Joint Delegated Committee must be chaired by a Councillor from one of the Councils that has resolved to establish the Joint Delegated Committee who is present at the meeting and is appointed by the members of the Joint Delegated Committee who are present at the meeting.
- (5) A quorum at a meeting of a Joint Delegated Committee is constituted by the number of members that is equal to at least a majority of the members constituting the Joint Delegated Committee.
- (6) Subject to subsection (2) and (7), the procedures for conducting a meeting of a Joint Delegated Committee are to be determined by the Councils that have resolved to establish the Joint Delegated Committee.
- (7) A Joint Delegated Committee must comply with any requirements prescribed by the regulations.

Unless otherwise stated within these Rules, the Chapters 1, 2, 3, 5 and 6 of these Rules apply to all Joint Delegated Committees. Chapter 4 of these Rules may apply to a Joint Delegated Committee Meeting if Members of that Meeting resolve to adopt Chapter 4 of these Rules for the purposes of that Meeting.

## 5.4 AUDIT AND RISK COMMITTEE

Section 53 of the *Local Government Act 2020* states that Council must establish an Audit and Risk Committee. An Audit and Risk Committee is not a Delegated Committee.

The Audit and Risk Committee will operate under its own Charter in accordance with the *Local Government Act 2020*, however, unless otherwise stated within these Rules, Chapters 3 and 6 of these Rules apply to the Audit and Risk Committee.

## 5.5 COMMUNITY ASSET COMMITTEE

Section 65 of the *Local Government Act 2020* states that Council may establish a Community Asset Committee and appoint as many members to that Committee as the Council considers necessary to enable the Community Asset to achieve the purpose of managing the asset in the municipality.

Unless otherwise stated within these Rules, Chapter 3 and 6 of these Rules apply to any Community Asset Committee. When establishing a Community Asset Committee, Council may then resolve which other Chapters of these Rules may also apply to the Committee.

## CHAPTER 6 – ELECTION PERIOD (CARETAKER) POLICY

Section 60(e) of the *Local Government Act 2020* states that a Council must develop, adopt and keep in force Governance Rules with respect to an Election Period Policy in accordance with section 69 of the Act. Section 69(1) of the Act states that a Council must include an Election Period Policy in its Governance Rules.

Greater Dandenong City Council adopted its current Election Period (Caretaker) Policy under the Local Government Act 1989 on 28 January 2020 prior to the *Local Government Act 2020* coming into effect.

The policy contained within Chapter 6 of these Rules is the same as the Election Period (Caretaker) Policy adopted by Council on 28 January 2020 but it includes amendments required under the new *Local Government Act 2020*.

### 6.1 ELECTION (CARETAKER) PERIOD

The Election Period for Victorian Local Government General Elections commences on the last day on which nominations for that election can be received and ceases at 6.00pm on Election Day. During the Election Period, Council will be deemed to be in election or caretaker mode.

The areas of Council's operations that will be impacted during the Election Period by the caretaker provisions are:

- a) decision making (including major contract and policy decisions or decisions relating to the employment of the Chief Executive Officer);
- b) use of council resources;
- c) events;
- d) media;
- e) publications;
- f) public consultation;
- g) requests for information;
- h) Councillor expenditure;
- i) grants funding; and
- j) contact with staff.

The Chief Executive Officer will ensure that all employees are informed of the requirements of the Election Period at least 30 days prior to the commencement of it.

#### 6.1.1 Misuse of Position

Councillors and candidates must be given equal access to support and information in the lead up to an election. Under section 123 of the *Local Government Act 2020*, Councillors and Delegated Committee Members cannot intentionally misuse their position to gain or attempt to gain, either directly or indirectly, an advantage for themselves or any other person.

Councillors must not use their position as an elected representative or their access to Council resources to gain media attention specifically in support of an election campaign.

No member of staff, when working as an employee of Greater Dandenong City Council and during work time, including the Mayor and Councillors Executive Assistant, can undertake any tasks connected directly or indirectly with a Councillor's election campaign. What a staff member can do in their own personal time (as a private citizen) has been clarified in [Appendix 1 – Guide for Staff Participating in Election Activities Outside Their Role Within Council](#)

Under the Act, the penalty for misuse of position is 600 penalty units or imprisonment for five (5) years.

#### 6.1.2 Contact with Staff

The Chief Executive Officer or any staff member, when working as an employee of Greater Dandenong City Council and during work time, cannot be asked to undertake any tasks connected directly or indirectly with electioneering. Similarly, all candidates must respect the privacy and wishes of staff when they are not at work (i.e., not all staff wish to be approached in any way outside of business hours.)

All queries and requests for access to information during the Election Period are to be directed through the Executive Management Team or the Manager Governance.

Council staff must act with integrity at all times. Any staff member who considers that they have been asked to undertake any task connected directly or indirectly with electioneering must advise their Manager, the Manager Governance and their Director immediately.

### 6.1.3 Expenditure

During the Election Period, claims for reimbursement of expenses must be used exclusively within the requirements set out in the Expenses, Support, and Reimbursement Policy and under no circumstance used in relation to any election campaigning or activities.

Councillors and Delegated Committee Members shall not participate in any interstate or overseas travel or undertake training or professional development activities in their capacity as a Councillor or Delegated Committee Member during the Election Period.

### 6.1.4 Council Resources

Public resources must not be used in a manner that may influence voting in an election or provide an undue advantage or disadvantage to a candidate.

During the Election Period, Council resources including offices, vehicles, staff, hospitality, services, property, equipment, stationery, Council logos, photos or images must be used exclusively for the purposes of the day-to-day operations of Council and under no circumstances used in relation to any election campaigning or activities.

In the event that Council resources may be perceived as being related to election campaigning, advice should be sought from the Chief Executive Officer.

### 6.1.5 Community Grants Program Funding

Assessment of all Community Grants applications will be suspended during the Election Period. Council will still accept applications during this time, but they will not be considered until after Election Day (*see Community Grants policies*).

### 6.1.6 Decision Making

Council will continue to hold Council Meetings during the Election Period to ensure Council continues to meet the needs of the community.

The following designated decisions are prohibited pursuant to section 69 of the *Local Government Act 2020*.

- a) decisions relating to the appointment or remuneration of the Chief Executive Officer but not to the appointment or recruitment of an Acting Chief Executive Officer; or
- b) decisions that commit the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- c) decisions the Council considers could be reasonably deferred until the next Council is in place; or
- d) decisions the Council considers should not be made during an election period.

During the Election Period, Council will also not make any major policy decisions or any significant decisions that may be perceived to inappropriately bind the incoming Council or any decisions that could reasonably be made after the Council Elections.

### 6.1.7 Caretaker Statement

During the Election Period the Chief Executive Officer will ensure that a Caretaker Statement is included in every report submitted to a Council Meeting for decision. The Caretaker Statement will be as follows:

- a) the recommended decision is not a decision as defined in Section 69 of the *Local Government Act 2020*, or a significant decision within the meaning of Council's Election Period (Caretaker) Policy.

## 6.1.8 Community Engagement

Any community engagement or public consultations should be avoided during the Election Period with the exception of public consultation required under the *Planning and Environment Act 1987* or matters subject to section 223 of the *Local Government Act 1989*.

If it is imperative to the day-to-day operations of Council that if community engagement needs to be conducted during the Election Period, it must be authorised in writing by the Chief Executive Officer.

Should Council be required to conduct community engagement during the Election Period, that engagement must not express any links to the election. In the likelihood that the engagement process is to become contentious or politically sensitive it should not proceed.

## 6.1.9 Council Communications and Publications

Council communications and publications in all formats (with the exception of Council's newsletter "*the Council News*") will remain distributed and accessible during the Election Period, however they will be limited to promoting normal Council services and activities.

Under no circumstances are Council communications and/or publications that might influence voting or provide an undue advantage for a candidate to be distributed during the Election Period. This limitation does not apply to information that is only about the process of the election.

A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute, or cause, permit or authorise to be printed, published or distributed any electoral matter in the name of Council or using Council resources during the Election Period. Council must not print, publish or distribute a publication during the Caretaker Period unless it has been approved by the Manager Governance acting on behalf of the Chief Executive Officer.

Under these provisions and during the Election Period, Council will not publish its October edition of *the Council News*, Greater Dandenong's monthly magazine.

**A Council employee must not make any public statement that could be construed as influencing the election.** Statements of clarification may be required from time to time and these must be approved by the Chief Executive Officer.

In the event that a Council spokesperson is required for a statement, the Chief Executive Officer will fulfil that role.

During the Election Period, Councillor profiles on Council's Website will be limited to a name and contact details only, for the purpose of their day-to-day role as an existing Councillor.

## 6.1.10 Social Media

Council cannot publish any notices on social media without approval from the Manager Governance acting on behalf of the Chief Executive Officer.

Social Media includes, but is not limited to Facebook, Twitter, YouTube, and blogs.

Any subject matter that is posted on council-controlled social media sites during the Election Period (including any posts by members of the public) that could be viewed as electoral or campaigning material will be removed, such as photos of Councillors at publicity events as well as Councillor profiles from Council's website (excluding Councillor contact details).

The site will be monitored regularly during business hours and any material deemed to be election campaign material by the CEO or his delegate will be removed as soon as practicable. Postings over the weekend will be monitored, however, removal may be delayed until the following business day.

While Councillors still undertake duties of their office during the Election Period, they must not use Council-related material, opinion or commentary within their own personal social media sites during that period.

No media advice or assistance will be provided to Councillors in relation to election campaign matters.

### 6.1.11 Functions and Events

Normal Council events are not prohibited during the Election Period, however it is position under these Rules that Council keeps them to a minimum.

Any event or function held during the Election Period shall relate only to the normal annual business of Council and shall not be used in connection with any election activity. All publicity, invitations and speeches prepared for use as part of a Council event or function held during the Caretaker Period must be approved by the Manager Governance on behalf of the Chief Executive Officer.

Where possible, the Chief Executive Officer, or delegate, will preside over any Council event or function held during the Election Period. Councillors should avoid making speeches at any Council event or function during the Election Period. Where circumstances require a Councillor to speak, the speech must not contain any political references, nor shall it provide, or be perceived to provide, an undue advantage to the Councillor in relation to the upcoming elections.

The following events will have variations:

- a) Mayors Annual Event – which may be scheduled earlier in the year, so it is not held during the Election Period; and
- b) Citizenship Ceremonies – will not be conducted during the Election Period.

Councillors must be reminded that if representing Council at a function or event during the Election Period that they are representing the Council and must not use the opportunity for electioneering.

Functions and events for the purpose of electioneering must not, and will not be, resourced or publicised by Council.

### 6.1.12 Access to Information

During the Election Period, Councillors and candidates shall not request or receive information or advice from Council staff to support election campaigns, nor shall staff provide such information.

While it remains important that sitting Councillors continue to have access to information or advice that is necessary to fulfil their existing roles, the provision of this information must be exercised with caution and limited to current matters that relate to the day-to-day operations of Council as required by the Councillor in the performance of their duties as a Councillor.

Council will ensure transparency in the provision of all information and advice during the Election Period. Information and briefing material prepared by staff for Councillors during the Election Period will relate only to factual matters or to existing services to assist Councillors in maintaining the day-to-day operations and activities of Council.

All enquiries from candidates (including sitting Councillors) in relation to the conduct of the election will be directed to the Election Manager (previously called the Returning Officer).

Section 123 of the *Local Government Act 2020* prescribes serious penalties for any Councillor or Delegated Committee Member who intentionally misuses their position to advantage or disadvantage any person.

Any Freedom of Information applications required to be processed during the Election Period on matters, costs or expenses relating to sitting Councillors will be dealt with in accordance with the *Freedom of Information Act 1982* but, where possible, outside of the Election Period.

### 6.1.13 Candidate Information

In conjunction with the Victorian Electoral Commission and Local Government sector industry bodies, Council will provide candidates with a Councillor Candidate Information Kit and opportunities to attend a Candidate Information Session to assist them in running and nominating for Council.

The Information Kits and Candidate Information Session will outline the obligations and requirements of nominating at the 2020 Local Government Elections.



### 6.1.14 Information Request Register

Council recognises that all election candidates have equal rights to public information from Council Administration subject to the *Privacy and Data Protection Act 2014* which may prevent disclosure of certain information.

To ensure Council maintains complete transparency in the provision of all information and advice during the Election Period, the Governance Unit will maintain an Elections Information Request Register during the Election Period. The Elections Information Request Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates and the response given to those requests.

Responses to requests for information by candidates should only be responded to by a Manager, Director or Chief Executive Officer and should be in writing.

All requests relating directly to electoral process or campaigning matters will be referred to the Election Manager.

### 6.1.15 Role of Election Manager

All election related enquires from candidates, whether sitting Councillors or not, will be directed to the Election Manager. Where the matter is outside the responsibilities of the Election Manager, candidates will be referred to the Greater Dandenong City Council's Chief Executive Officer or his delegate.

### 6.1.16 Grievances

Council confirms that all candidates for the 2020 General Elections will be treated equally. Any complaints or grievances in relation to these Rules should be referred to the Manager Governance. Any complaints or grievances in relation to the conduct of the elections should be referred to the Election Manager appointed by the Victorian Electoral Commission.

### 6.1.17 Disclaimer

These Rules should be used as a guide only and are not a substitute for legal advice. If necessary, legal advice should be sought independently to clarify the relevant aspect of *the Local Government Act 2020* and/or any other relevant regulations relating to the 2020 Council Elections Election Period.

## 6.2 GUIDE FOR STAFF PARTICIPATING IN ELECTION ACTIVITIES OUTSIDE THEIR ROLE WITHIN COUNCIL

It is understood that members of staff may live within the municipality and participate in Greater Dandenong City Council elections as part of their normal community affairs as a private citizen. Some members of staff may choose to electioneer for candidates in Greater Dandenong City Council elections.

If a member of staff has a significant role in an election candidate's campaign, there is potential for a conflict of interest between taking a position on issues and impartially performing their official Council duties. In such circumstances, the employee should discuss such potential conflicts of interest with the Manager People and Procurement or Manager Governance.

Members of staff should also be aware that there are obligations in relation to conflicts of interest under the *Local Government Act 2020* and the Greater Dandenong City Council Code of Conduct – Staff.

If a member of staff is involved in electioneering activities, they should make it clear that they are not undertaking these activities in their capacity as an employee of Council. This includes not using Council's email address, email footer or letterhead, and not wearing any council uniform or logo while undertaking those electioneering activities. In addition:

- a) Staff must not use any Council resources in undertaking electioneering activities.
- b) Staff must not undertake electioneering activities during work time.
- c) Staff must ensure that their electioneering activities do not influence or interfere with their performance at work.

Staff must also ensure that, if undertaking electioneering activities and making comment on Council activities that they are involved in, they make it clear that they are expressing their own views as a private citizen and not making an official comment on behalf of Council as an employee.

### 6.3 APPROVAL PROCESS FOR COUNCIL PUBLICATIONS

- a) Please understand and read through Chapter 6 of these Rules.
- b) If you are intending to print, publish or distribute any advertisement, handbill, pamphlet or notice during the election period then read through the document you have produced carefully and check that it does not contain any electoral or electoral related matter.
- c) The document must be approved by the Manager Governance on behalf of the Chief Executive Officer.
- d) Please email the objective reference of any publication intended to be distributed during the Election Period to [zzCaretaker@cgd.vic.gov.au](mailto:zzCaretaker@cgd.vic.gov.au) so that the document can be approved. This DOES NOT include operational letters to residents from Council officers that respond to queries, registrations, requests for permits, payments, immunisations, etc. Normal operations of Council continue during an Election Period. However, if you are uncertain, send your publication to the email address above. The Manager Governance will read the proposed publication and check that no election material is present.
- e) The Manager Governance will advise you whether the document is approved for general circulation during the Election Period and what is to be included or changed in the document (if changes are required).
- f) Governance will arrange for a copy (alias) of the document to be saved in a specific election period folder within Objective.

Please do not send documents directly to the CEO. Turnaround time (maximum) for having responses back is two working days. Governance will always ensure that urgent material is prioritised.

#### **Your request to Governance**

This could read something like:

*This material has been checked and does not contain any electoral or electoral related matter to the best of my knowledge. Could you please arrange to have the material approved and advise me accordingly?*