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# GOVERNANCE RULES 2020

July 2020

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These Governance Rules 2020 are made in accordance with Section 60 of the *Local Government Act 2020*, and were adopted by resolution of Darebin City Council on 20 July 2020.

<b>Version</b>	<b>Date Adopted by Council</b>	<b>Amendment</b>
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## AUTHORISATION

- 1) The Darebin City Council at its Meeting on 20 July 2020 has established these Governance Rules in accordance with section 60 of the Local Government Act 2020.
- 2) These Governance Rules commence on 20 July 2020.

## COMMITMENT

Good governance and integrity underpin local government democracy, accountability and conduct. Adherence to these principles enables our community to hold the Council to account for its performance and reflects the obligations of the *Local Government Act 2020* (the Act).

The principles of good governance are to be applied throughout all decision making, corporate governance and democratic governance by adherence to these Governance Rules. The principles of good governance incorporate the overarching governance and supporting principles outlined in section 9 of the Act<sup>1</sup>.

Council decision making will also be conducted with transparency. The process by which decisions will be made is transparent and clearly articulated in these Governance Rules for the scrutiny of our community and accountability of Councillors and Council officers.

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### <sup>1</sup> 9 Overarching governance principles and supporting principles

- (1) A Council must in the performance of its role give effect to the overarching governance principles.
- (2) The following are the overarching governance principles—
  - (a) Council decisions are to be made and actions taken in accordance with the relevant law;
  - (b) priority is to be given to achieving the best outcomes for the municipal community, including future generations;
  - (c) the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
  - (d) the municipal community is to be engaged in strategic planning and strategic decision making;
  - (e) innovation and continuous improvement is to be pursued;
  - (f) collaboration with other Councils and Governments and statutory bodies is to be sought;
  - (g) the ongoing financial viability of the Council is to be ensured;
  - (h) regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
  - (i) the transparency of Council decisions, actions and information is to be ensured.
- (3) In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—
  - (a) the community engagement principles;
  - (b) the public transparency principles;
  - (c) the strategic planning principles;
  - (d) the financial management principles;
  - (e) the service performance principles.

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## CHAPTER 1 – INTRODUCTION

### 1. Purpose

These Governance Rules determine the way in which Council will:

1. make decisions:
  - in the best interest of the Darebin community
  - fairly and on the merits of the question
  - in a way that ensures any person whose rights will be directly affected by a decision will be entitled to communicate their views and have their interests considered.
2. elect its Mayor and Deputy Mayor, Acting Mayor and Chairpersons of Committees
3. conduct meetings of Council and Delegated Committees
4. give notice of meetings (including access arrangements) and record and make available meeting minutes
5. be informed in its decision making through community engagement, input from advisory committees and Council officer reports
6. require the disclosure and management of conflicts of interest; and
7. regulate the form and availability of meeting records

The Governance rules also include:

1. rules for the conduct of Council and Councillors during Election Periods, through the Election Period Policy;
2. an overview of alignment of the Governance Rules within Council's democratic and corporate governance; and
3. provisions for use of the common seal.



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## CHAPTER 2 - CONTEXT

### 2.1 Affected Persons Rights and Interests

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

This includes but is not limited to the rights outlined in the Charter of Human Rights and Responsibilities Act 2006 and *Towards Equality* - Darebin City Council's Equity, Inclusion and Human Rights Framework 2019-2029. The opportunity provided for a person whose rights have been affected to contribute their views will be documented in any relevant report put before the Council. A Council officer making a decision under delegation that affects the rights of a person will record in writing the opportunity provided to the person to have their views considered.<sup>2</sup>

### 2.2 Context

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

- Community Engagement Policy Public Transparency Policy;
- Councillor Code of Conduct;
- Employee Code of Conduct;
- Other relevant policies.

Any Guidance, Overview Notes and Footnotes within these rules are intended to be explanatory and do not form part of these Governance Rules. They will be monitored and updated as required to reflect changes to legislation or to assist interpretation and understanding.

### 2.3 Definitions

(1) In these Governance Rules:

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

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

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

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

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

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.

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

**Authorised Officer** means a Member of Council staff who is authorised by Chief Executive Officer or by the Council either generally or in a particular case

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

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

**Chief Executive Officer** means the person who is appointed to the position of Chief Executive Officer of Council, their delegate, and any person acting in that position

**Committee** means a Committee established by Council, including a Delegated Committee

**Committee Meeting** means a meeting of a Delegated Committee;

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

**Continuance** means a continuance of a Meeting beyond the time limit prescribed by clause 1.3.1(1) of the Meeting Rules

**Council** means Darebin City Council;

**Councillor** means a Councillor of Council;

**Council Meeting** means a meeting of the Council convened in accordance with these Governance Rules and includes an Ordinary Meeting and a Special Meeting

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

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

**Delegated Committee** means a Delegated Committee established by Council pursuant to, and in accordance with, section 63 of the Act

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

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

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

**Electronic Means** means email or facsimile transmission or similar electronic means of communication including utilising in house, hosted or cloud based file and document sharing software or systems

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

**Full Days** means complete days from midnight to midnight, including weekends and public holidays

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

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**Give Notice** in respect of communication to and from Councillors includes an email forwarded to the Council-provided email account of the Councillor or the provision of documents transmitted via a secure software application to a Council-provided device

**Majority of the Votes** means a majority of Councillors or members of a Delegated Committee present at the time of a vote voting in favour of a matter;

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

**Meeting** means a Meeting of the Council (including a Special Meeting) or a Delegated Committee Meeting;

**Member** means a Councillor or member of a Delegated Committee;

**Minister** means the Minister administering the Act;

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

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

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

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

**Opposite** in relation to a motion or amendment, means a direct negation of the underlying action or intent contained within that motion or amendment

**Petition** means a document purporting to be a Petition to Council that meets the requirements outlined in Clause 16 of the Meeting Rules

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

**Procedural Motion** means a Motion specified as such in clause 9 of the Meeting Rules that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

**Quorum** means presence by a majority of Councillors at a Council Meeting or a majority of Members at a meeting of a Delegated Committee or any other Meeting

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

**Special Meeting or Special Council Meeting** means a meeting of the Council convened for a particular purpose or matter that cannot be effectively dealt with in the schedule of Ordinary Council meetings set by Council;

**Rule or Sub-rule** means a rule or sub-rule included in these Governance Rules; (2)

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## CHAPTER 3 – MEETING RULES

In accordance with s 60 of the Local Government Act 2020 these Meeting Rules are for and with respect to

- (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;
- (e) the appointment of an Acting Mayor;

### PRELIMINARY

#### ***Italicised Notes***

*Italicised notes are to be found through the Meeting Rules. These are explanatory notes only and are provided as guidance. They do not form part of the Meeting Rules.*

*The italicised notes may be updated from time to time to reflect changes to legislation or to assist understanding.*

#### ***Overview***

*The Preliminary chapter of the Meeting Rules outlines the title, purpose, authority and the application of the Meeting Rules.*

*It also defines key terms used throughout the Meeting Rules.*

#### **Title**

This is the Darebin City Council Meeting Rules 2020 which forms part of the Councils Governance Rules made under section 60 of the *Local Government Act 1989*.

#### **Application of the Meeting Rules**

- 1) The Meeting Rules apply at all times throughout the Municipality.
- 2) Where applicable the Meeting Rules must be read in conjunction with the Councillor Code of Conduct.
- 3) The Meeting Rules will apply to all Ordinary and Special meetings of Council and any Delegated Committees established by Council under the Act.

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# 1. ORDINARY COUNCIL MEETINGS, SPECIAL COUNCIL MEETINGS AND DELEGATED COMMITTEES OF COUNCIL

## 1.1. Notice of Meetings and Agenda Distribution

### **Overview:**

*Ordinary Meetings are held regularly to conduct the ongoing business of the Council.*

*Special Council Meetings are unscheduled meetings of the Council and are held when called to deal with the specific business detailed in the notice or resolution requesting the Chief Executive Officer to call them*

*Delegated Committee Meetings are meetings of :*

- *a Delegated Committee established by Council pursuant to, and in accordance with, section 63 of the Act; or*
- *a joint delegated committee established by 2 or more Councils under section 64 of the Act.*

*Wherever possible, an agenda for each type of Meeting must be provided to Councillors in advance so that they can prepare adequately for the Meeting.*

*In the case of Delegated Committees that are not comprised solely of Councillors, the Chairperson must provide reasonable notice to the public of meetings of the Delegated Committee. Council must ensure that public notice of any meeting is also published on Council's website).*

### **1.1.1. Calling and Scheduling of Ordinary Meetings and Special Meetings**

- (1) The dates, times and locations of Council Meetings will be fixed by Council from time to time.
- (2) Notwithstanding sub clause (1) the date, time and location of a Council Meeting may be altered by Council resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Meeting which has been fixed and must provide notice of the change to the public.
- (3) A schedule of Council Meetings must be prepared and published in publications that are distributed throughout the municipality (including Council publications) and on Council's website at least once each year or with such greater frequency as the Chief Executive Officer determines.

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### **1.1.2. Calling and Scheduling of Special Council Meetings**

- (1) A notice to call a Special Council Meeting must be delivered to the Chief Executive Officer in sufficient time to enable the provisions of this section to be observed
- (2) Any resolution of Council to call a Special Council Meeting must specify the date and time of the Special Council Meeting and the business to be transacted. The date and time of the Special Council Meeting must not be prior to 6pm on the day following the Council Meeting at which the resolution was made.
- (3) Council must at least seven (7) days before the holding of a Special Council Meeting give public notice .
- (4) If urgent or extraordinary circumstances prevent the Council from giving the prescribed notice, Council must give such public notice as is practicable and specify in the minutes of the Meeting the urgent or extraordinary circumstances which prevented Council from complying with the seven (7) day notice.

### **1.1.3. Process to Call a Special Council Meeting**

- (1) The mayor or at least 3 Councillors may by written notice call a Special Council Meeting
- (2) The notice must specify the date and time of the Special Council Meeting and the business to be transacted
- (3) The Council may by resolution call a Special Council Meeting
- (4) The resolution must specify the date and time of the Special Council Meeting and the business to be transacted
- (5) The Chief Executive Officer must call the delegated meeting as specified in the notice or resolution
- (6) Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice or resolution is to be transacted.
- (7) The Chief Executive Officer may call a Special Council Meeting within 14 days of the result of a Council election being declared.

### **1.1.4. Agenda Distribution**

- (1) This clause applies to Ordinary Meetings and Special Meetings.
- (2) At least six (6) days before a Meeting is scheduled to occur, an Agenda incorporating the business to be dealt with must be:
  - a) delivered to each Councillor by electronic means; and
  - b) published on Council's website.
- (3) If it not possible to comply with sub-clause (2) for any reason, the Chief Executive Officer must ensure delivery and publication of the Agenda as soon as reasonably possible.

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### 1.1.5. Adjourned, Cancelled or Postponed Meetings

- (1) The Chief Executive Officer may cancel or postpone any Meeting by giving such notice to Councillors via electronic means and the public via publication on Council's website as soon as is reasonably practicable, where they are satisfied that the cancellation or postponement is warranted because:
  - a) of an emergency;
  - b) a quorum will not be achieved due to apologies received ahead of the Meeting;
  - c) there is insufficient material in the Agenda to justify a Meeting being held;
  - d) holding the Meeting would give rise to a risk to health and / or safety; or
  - e) of any other circumstances have arisen which make the holding of the Meeting undesirable.
- (2) If a Meeting is adjourned, cancelled or postponed to another day for any reason, clauses 1.1.4(1), (2) and (3) apply to the extent that is reasonably practicable.

## 1.2. Quorums

### **Overview:**

*No business can be transacted at any Meeting unless a majority of the Councillors are present (Quorum).*

*If there is no Quorum at the commencement of a Meeting or if a Quorum cannot be maintained during a Meeting, the Meeting is to be adjourned to another date and/or time.*

### 1.2.1. Quorum to be present

- (1) No business may be conducted at any Council Meeting unless a Quorum is present.
- (2) Quorum means presence by a majority of Councillors

### 1.2.2. Failure to Raise a Quorum

- (1) If a Quorum is not present within 30 minutes of the time appointed for the commencement of a Meeting, the Chief Executive Officer or, in their absence, another Officer, will adjourn the Meeting to another date and time not more than 14 days from the original date of the Meeting.
- (2) Unless the Meeting is adjourned to a later time on the same day, the Chief Executive Officer or, in their absence, another Officer, must give notice to all Councillors of the adjourned Meeting in accordance with clause 1.1.5 of the Meeting Rules.

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- (3) The requirement in sub-clause (2) does not apply in respect of any Councillor who has been granted leave obtained from the Council pursuant to section 35(1)(e) of the Act and who has not requested the Chief Executive Officer, in writing, to continue to give notice of Meetings to be held during the period of leave of absence.

### **1.2.3. Inability to Maintain a Quorum**

- (1) If a quorum is lost after a Meeting has commenced, the Chief Executive Officer or, in their absence, another Senior Officer, must immediately adjourn the Meeting for a period not exceeding 30 minutes, at which time, if a quorum is:
  - a) present, the Meeting resumes; or
  - b) not present and, after using their best endeavours to regain a quorum, and they cannot do so, they must announce that the Meeting has closed.
- (2) If a Meeting closes under sub-clause (1)b), the undisposed business must be listed at:
  - a) the next Ordinary Council Meeting; or
  - b) a subsequent Special Council Meeting convened for this purpose; or
  - c) a subsequent Meeting where the undisposed business is included in the business to be transacted for that Meeting.
- (3) All business transacted prior to the closure of a Meeting due to loss of a quorum is valid and capable of being acted upon.

### **1.2.4. Inability to Achieve or Maintain a Quorum Due to Conflicts of Interest of Councillors**

- (1) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Meeting. This does not require a resolution of Council.
- (2) If a Quorum cannot be achieved or maintained due to the declaration of conflicts of interest by the majority of Councillors, the Chief Executive Officer or, in their absence, another Officer, may adjourn the Meeting for a length of time sufficient to enable exemption for the affected Councillors to be obtained from the Minister.



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### **1.3. Time Limits for Meetings**

#### **1.3.1. Time Limits for Meetings**

- (1) A Meeting must not continue for more than four (4) hours from the time that the Meeting started unless a Procedural Motion for a Continuance is carried (with a mover and seconder, and no debate).
- (2) A Continuance of a Meeting will be in a block period of 30 minutes.
- (3) After the initial 30-minute Continuance, the Meeting must not continue unless a Procedural Motion for a further Continuance is carried.
- (4) A Meeting may only be continued for a maximum of two (2) 30-minute Continuances.
- (5) In the absence of a Continuance or in the event there is further business to be transacted at the completion of two Continuances, the Meeting must stand adjourned and be re-convened in accordance with this Meeting Rules.
- (6) If sub-clause (5) applies, clause 1.1.5 operates with respect to the provision of notice of the adjourned Meeting.
- (7) Notwithstanding sub-clause (5), the Chairperson may seek the agreement of Councillors not to adjourn the Meeting to a subsequent day, if the Chairperson reasonably believes the remaining business will take less than 15 minutes to transact.
- (8) In the absence of a Continuance under this clause:
  - a) Council may, during the time allowed for the Meeting, resolve that the Meeting be adjourned; or
  - b) at the conclusion of the time allowed for the Meeting, the Meeting must stand adjourned and any undisposed business must be disposed of in accordance with clause 1.2.3(2).

#### **1.4. Chairperson may Temporarily Adjourn a Meeting**

The Chairperson may adjourn a Meeting for up to a 10-minute break, at an appropriate point in proceedings. This does not require a Council resolution.

#### **1.5. Business Transacted Valid**

All business transacted at the Meeting before any adjournment will remain valid and be capable of being acted upon.

## 2. Business of Meetings

### **Overview:**

*The business to be transacted at a Council Meeting is contained in the Agenda provided to Councillors and available to the public on Council's website.*

*The Chief Executive Officer oversees preparation of the Agenda and determines the content and order of business to facilitate open, efficient and effective processes of government. Council can, in some circumstances, admit an item of urgent business after the distribution of the Agenda.*

### **Relevant Provisions of the Local Government Act – Conflict of Interest**

*Part 6 Division 2 of the Act defines when a Councillor will have a conflict of interest. Any Councillor who has a conflict of interest must comply with the requirements of the Part of the Act and with the Governance Rules of the Council relating to procedures for the disclosure of a conflict of interest.*

*Among these requirements is the requirement to disclose the existence of a conflict of interest and the type of interest and nature of the interest. This must be done immediately before the consideration or discussion of the item in which the Councillor has a conflict of interest, unless the type and nature of the conflict of interest have been disclosed to the Chief Executive Officer in writing before the Meeting. If the type and nature of the interest have been disclosed to the Chief Executive Officer in writing before the Meeting, only the existence of the conflict of interest and the type of interest must be disclosed in the Meeting.*

*Whilst a Councillor must disclose the conflict of interest at the commencement of the Meeting when conflicts of interest are called for, the existence of the conflict of interest and the class and nature of the interest must again be disclosed immediately before any consideration or discussion of the relevant Agenda item occurs.*

### **2.1. Order of Business**

- (1) The Chief Executive Officer is responsible for preparation and delivery of the Agenda, including the determination of the order of business.
- (2) Once the Agenda has been circulated, no further changes will be made to the Agenda, unless the Chief Executive Officer determines to issue a supplementary report.
- (3) The Agenda for each Ordinary Meeting (only) must contain the following items:
  1. Opening of Meeting
  2. Acknowledgement of Traditional Owners
  3. Apologies
  4. Disclosures of Conflicts of Interest
  5. Confirmation of the Minutes of Council Meetings

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6. Public Question Time
  7. Petitions
  8. Consideration of Reports
  9. Notices of Motion
  10. Urgent Business
  11. Records of Assemblies of Councillors
  12. Reports by Mayor and Councillors
  13. Consideration of Reports Considered Confidential
  14. Close of Meeting
- (4) The items to be listed on the Agenda of any Meeting of a Delegated Committee will be determined by the Chief Executive Officer.

## **2.2. Change to the Order of Business**

- (1) A change to the order of business may only be made by through a Procedural Motion. (with a mover and seconder, and no debate)
- (2) Changes to the order of business through a Procedural Motion may be made more than once during a Meeting.

## **2.3. Business at Meetings**

- (1) No business can be dealt with at an Ordinary Meeting unless:
  - a) it is contained on the Agenda; or
  - b) it is admitted as urgent business in accordance with 8.1.
- (2) No business can be dealt with at a Special Council Meeting or a Delegated Committee Meeting unless it is contained on the Agenda.

## **2.4. Conflict of Interest**

Councillors, members and officers must provide a full disclosure of any conflict of interest in accordance with Part 6 Division 2 and the Chapter 5 of the Governance Rules under Part 60 of the Act.

## **2.5. Presence of Councillors**

Councillors must be physically present in the Council Chamber in order to participate in the Meeting and to vote.

**Note:**

*To the extent that there may be any conflict or inconsistency between these Meeting Rules and the Act, the Act will prevail.*

### 3. Role of the Chairperson

**Overview:**

*In accordance with the Act, the role of the Mayor is to Chair Council Meetings. If the Mayor is absent, the Deputy Mayor (if any) must take the Chair and if both are absent, Council must elect one of the Councillors as temporary Chairperson.*

*The way in which Council and Committee Meetings are conducted makes a significant contribution to good governance. The Chairperson plays a crucial role in facilitating an orderly, respectful, transparent and constructive meeting by ensuring all Councillors and members of Committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed and statutory requirements are adhered to.*

*The Chairperson is an independent leader of meetings and generally does not participate in debate or move or second motions. Specific duties and discretions of the Chairperson are outlined throughout this Meeting Rules.*

#### 3.1. Mayor to Take Chair

- (1) The Mayor must take the chair at all Ordinary Meetings and other Meetings conducted by or on behalf of Council at which they are present unless:
  - a) they are precluded from doing so because of a conflict of interest;
  - b) they step down from the chair for a short period with the consent of the Meeting; or
  - c) in the case of a Delegated Committee Meeting, Council or the Delegated Committee has appointed someone else as a Chairperson for that Delegated Committee.
- (2) If the Mayor is unable to take the chair or steps down in accordance with sub-clause (1), the Deputy Mayor must take the chair.
- (3) If the Deputy Mayor is not present or is unable to take the chair, an acting or temporary Chairperson will be appointed.

#### 3.2. Appointment of an Acting or Temporary Chairperson

- (1) The election of an acting or temporary Chairperson will be made by through a Procedural Motion. (requiring a mover and seconder, and with no debate)
- (2) While considering a motion to appoint of an acting or temporary Chairperson, the Meeting will be chaired by:
  - a) the Mayor; or where the Mayor is not present
  - b) the Deputy Mayor; or where the Deputy Mayor is not present
  - c) the Chief Executive Officer or her or his delegate or nominee.

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### **3.3. The Chairperson's Duties and Discretions**

In addition to the specific duties and discretions provided in this Meeting Rules, the Chairperson has the following duties.

- 1) The Chairperson must not accept any motion or amendment which is determined by the Chairperson to be:
  - a) defamatory, malicious, abusive or objectionable in language or substance;
  - b) vague or unclear in intention;
  - c) outside the powers of Council;
  - d) irrelevant to the item being considered;
  - e) purporting to be an amendment but is not; or
  - f) the same as, or similar in intent to, a Notice of Motion or other motion (including lost and lapsed motions) that has been considered by Council in the preceding six (6) months, unless the majority of the whole Council consents to it being accepted and debated; or
  - g) it includes a misleading or false statement.
- 2) The Chairperson must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the Meeting.
- 3) The Chairperson must ensure that silence is preserved in the public gallery during a Meeting.
- 4) The Chairperson must call to order any person if their behaviour is disruptive or unruly or interferes with the conduct of the business of Council.
- 5) The Chairperson must call to order any member of the public who approaches the Council table during the Meeting, unless invited by the Chairperson to do so.
- 6) The Chairperson must decide on all points of order in accordance with clause 10.3.

### **3.4. Chairperson's Ruling**

Where the Meeting Rules do not provide for a procedure for a Meeting, the Chairperson will determine the procedure to be followed.

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## 4. Motions

### **Overview:**

*This section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the Chairperson in relation to accepting motions and amendments.*

*A Councillor may move any motion related to an item included in the Agenda. In the interests of transparency and informed decision making, motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the motion being considered by Council.*

*As a resolution must be able to be acted upon, a motion must clearly state what is intended and what its impact will be. This provides clarity for the implementation of Council decisions.*

### **4.1. Moving a Motion**

The procedure for moving any motion is as follows.

- a) A Councillor who wishes to move a motion must raise their hand (not stand).
- b) The Chairperson will call on the Councillor they determine raised their hand first.
- c) The mover must state the motion without speaking to it.
- d) The motion must be seconded by a Councillor other than the mover by raising their hand (not standing).
- e) The Chairperson is unable to move or second a motion.
- f) If the Chairperson wishes to move or second a motion, then:
  - i. The Deputy Mayor must take the chair or, if there is no Deputy Mayor or the Deputy Mayor is absent or is the current Chairperson, the Meeting must elect a temporary Chairperson; and
  - ii. Whereupon the Chairperson must vacate the chair and not return to it until the motion has been resolved upon.
- g) If a motion is not seconded, the motion lapses for want of a seconder. There will be no discussion or debate on a motion that has not been seconded.
- h) If there is a seconder, the Chairperson must call on the mover to speak to the motion prior to any amendment. This signals the beginning of the debate.
- i) Prior to the commencement of debate on a motion or an amendment a Councillor may, when no other Councillor is speaking, ask any question of Officers concerning or arising out of the motion for the purposes of clarification. A Councillor may not ask a question of Officers once debate has commenced on a motion
- j) After the mover has spoken to the motion, the seconder (unless they reserve their right to speak later in the debate) may also speak to the motion prior to any amendment.

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- k) Except for the mover of a motion who has a right of reply in accordance with clause 4.5 check of the Meeting Rules, all other Councillors can only speak once to the motion.
  - l) The Chairperson may only speak to a motion when all Councillors who wish to speak to it have done so, and just before closure of debate by the mover of the motion.
  - m) After the seconder has spoken to the motion (or after the mover has spoken to the motion if the seconder does not speak to the motion), the Chairperson must call on any Councillor who wishes to speak against the motion, then on any Councillor who wishes to speak for the motion, alternating with all Councillors wishing to speak.
  - n) After waiting until all Councillors wishing to speak to the motion have spoken, the Chairperson will put the matter to the vote or, if no Councillor indicates opposition or a desire to speak to the motion, the Chairperson will put the matter to the vote immediately.
  - o) Before putting a motion to the vote, the Chairperson may require the Chief Executive Officer or their delegate to read out the text of the motion.

#### **4.2. Debate Must be Relevant**

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

#### **4.3. Miscellaneous Rules of Debate**

- 1) A Councillor must not, in any debate, make any defamatory, indecent, abusive, offensive or disorderly statement or comment about any Councillor, Officer or other person.
- 2) If a statement or comment described in sub-clause 1) is made, the Chairperson may, without a point of order being raised, direct the Councillor to withdraw it and the Councillor concerned must immediately and unreservedly do so.
- 3) Failure to comply with Chairpersons direction in relation to clause 1) may result in a warning pursuant to clause 11.4 of these Meeting Rules.
- 4) In cases where there is competition for the right to speak at a Meeting, including moving or seconding a motion or amendment, the Chairperson must decide the order in which Councillors may speak.

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- 5) If a debate is adjourned by Procedural Motion, then the Councillor who moved the adjournment has the right to speak first when the debate is resumed.
  - 6) A Councillor must not be interrupted except by the Chairperson or upon a point of order being taken.
  - 7) A mover and seconder of a motion or amendment are not permitted to withdraw their moving and seconding of the motion or amendment after debate has commenced.

#### **4.4. Right to Ask Questions**

- 1) Prior to the commencement of debate on a motion (including a procedural motion) or an amendment a Councillor may, when no other Councillor is speaking, ask any question of Officers concerning or arising out of the motion for the purposes of clarification. A Councillor may not ask a question of Officers once debate has commenced on a motion
- 2) A Councillor must not ask any question that is in any way defamatory, indecent, abusive, offensive or disorderly about any Councillor, Officer or other person.
- 3) The Chairperson has the right to limit questions and direct that debate be commenced.
- 4) A Councillor asking a question under sub-clause 1) is not deemed to be speaking to the motion before the Meeting.

#### **4.5. Right of Reply**

- 1) The mover of a motion that has not been amended may, once debate has been exhausted, exercise a right of reply to matters raised during debate immediately before the vote is taken.
- 2) No new matters may be raised in the right of reply.
- 3) If no Councillor has spoken against a motion, there will be no right of reply.
- 4) The mover of a motion loses his or her right of reply if an amendment to the motion is carried.
- 5) The mover of an amendment to a motion does not have a right of reply.
- 6) After the right of reply has been exercised, the motion must immediately be put to the vote without any further questions, discussion or debate.

#### **4.6. Time Limits for Debate**

A Councillor must not speak on any one motion for a time longer than that stated below:

the mover of a motion:	3 minutes
any other speaker:	2 minutes
the mover of a motion exercising a right of reply:	2 minutes



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#### 4.7. Moving an Amendment

- 1) A motion that has been moved and seconded may be amended by leaving out, inserting or adding words that are relevant to the subject of the motion.
- 2) An amendment must not be directly Opposite to the motion.

**Note:**

*If a proposed amendment is ruled by the Chairperson to be directly opposite or substantially contrary to the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Council is lost.*

- 3) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original motion and the Chairperson.
- 4) If a Councillor proposes an amendment and the original mover and seconder of the motion both indicate their agreement with the amendment, the amended motion becomes the substantive motion without debate or vote.
- 5) A motion to confirm a previous resolution of Council cannot be amended.
- 6) The procedure for moving any amendment is as follows.
  1. Councillor who wishes to move an amendment must raise their hand (not stand).
  2. The Chairperson will call on the Councillor they determine raised their hand first.
  3. The mover must state the amendment without speaking to it.
  4. The amendment must be seconded by a Councillor other than the mover by raising their hand (not standing).
  5. The Chairperson is unable to move or second an amendment.
  6. If the Chairperson wishes to move or second an amendment, then:
  7. the Deputy Mayor must take the chair or, if there is no Deputy Mayor or the Deputy Mayor is absent or is the current Chairperson the Meeting must elect a temporary Chairperson; and
  8. whereupon the Chairperson must vacate the chair and not return to it until the amendment has been resolved upon.
  9. If an amendment is not seconded, the amendment lapses for want of a seconder. There will be no discussion or debate on an amendment that has not been seconded.
  10. If there is a seconder, the Chairperson must call on the mover to speak to the amendment. This signals the beginning of the debate.
  11. Prior to the commencement of debate on an amendment a Councillor may, when no other Councillor is speaking, ask any question of Officers concerning or arising out of the motion for the purposes of clarification. A Councillor may not ask a question of Officers once debate has commenced on an amendment

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12. After the mover has spoken to the amendment, the seconder (unless they reserve their right to speak later in the debate) may also speak to the amendment.
  13. After the seconder has spoken to an amendment (or after the mover has spoken to the amendment if the seconder does not speak to the amendment), the Chairperson must call on any Councillor who wishes to speak against the amendment, then on any Councillor who wishes to speak for the amendment, alternating with all Councillors wishing to speak.
  14. After waiting until all Councillors wishing to speak to the amendment have spoken, the Chairperson will put the amendment to the vote or, if no Councillor indicates opposition or a desire to speak to the amendment, the Chairperson will put the amendment to the vote immediately.
  15. Before putting an amendment to the vote, the Chairperson may require the Chief Executive Officer or delegate to read out the text of the amendment.

#### **4.8. Miscellaneous Rules for an Amendment**

- 1) A Councillor may speak on any amendment once, whether or not she or he has spoken to the motion, but debate must be confined to the terms of the amendment.
- 2) Any number of amendments may be proposed to a motion, but only one amendment may be accepted by the Chairperson at any one time.
- 3) No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on.
- 4) The mover of an amendment does not have any right of reply.
- 5) Any one Councillor cannot, without the leave of the Chairperson, move more than two amendments in succession.
- 6) If an amendment is carried, the motion as amended then becomes the substantive motion before the Meeting.
- 7) Neither the mover of the original motion, nor the mover of the amendment, has a right of reply to that amended motion.

#### **4.9. Time Limits for Debate for an Amendment**

A Councillor must not speak on an amendment for a time longer than stated below, unless granted an extension by the Chairperson:

the mover of an amendment:	3 minutes
any other speaker:	2 minutes

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#### 4.10. Foreshadowing Motions

- 1) At any time during debate, a Councillor may foreshadow a motion so as to inform Council of their intention to move a motion at a later stage in the meeting, however, this does not extend any specific right to the foreshadowed motion.
- 2) A motion foreshadowed may be prefaced with a statement that, in the event of a particular motion before the Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 3) The Chief Executive Officer or person taking the Minutes of the Meeting is not required to record a foreshadowed motion in the Minutes until the foreshadowed motion is formally moved.
- 4) A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a Meeting.
- 5) A Councillor foreshadowing a motion under this clause is not deemed to be speaking to the motion or amendment before the Meeting.

#### 4.11. Motions Moved in a Block

The Chairperson may direct that like motions be moved in a block (en bloc) if the motions note actions already taken by Council and / or will not commit Council to take any further action, incurring any expenditure or making any changes to policy.

#### 4.12. Motions and amendments in writing

- 1) The Chairperson may require that any motions and amendments be submitted in writing.
- 2) The Chairperson may adjourn a Meeting while a motion or an amendment is being written or may request Council to defer the matter until the motion or amendment has been written, allowing the Meeting to proceed uninterrupted.
- 3) Any motions and amendments must clearly state the intention and effect of the proposed resolution.

**Note:**

*This is generally interpreted to mean that a resolution must be capable of standing alone, that is, a person reading the decision of Council in the minutes will be able to understand what Council is seeking to achieve without reference to other sources.*

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## 5. Voting

### **Overview:**

*At the conclusion of debate on a matter before the Meeting, the Chairperson must put the motion or amendment to the vote. Each Councillor is entitled to one vote and voting must be by show of hands. The vote is determined by a majority of the Councillors present at the meeting at the time the vote is taken voting in favour of the motion or amendment.*

*If a vote is tied, the Chairperson has a casting vote.*

### **5.1. How a Motion or an Amendment is Determined**

- 1) To determine a motion or amendment before a Meeting, the Chairperson must first call for those voting in favour of the motion or amendment, then those voting against the motion or amendment. Except for procedural matters the Chairperson will call the names of all those voting in favour of the motion or amendment, then those voting against the motion or amendment and these will be recorded in the minutes of the meeting.
- 2) Voting on any matter is by a show of hands.
- 3) Voting must take place in silence.
- 4) The Chairperson may direct that a vote be recounted to satisfy herself or himself of the result.
- 5) When a vote is tied, the Chairperson has a second, casting vote and may use this vote as they see fit.
- 6) Once a vote on a motion or amendment has been taken, no further discussion relating to the motion or amendment is permitted.

### **5.2. Separation of Motions**

- 1) Where a motion contains two or more parts, a Councillor may request at any time before a vote is taken that the Chairperson put each part of the motion to the vote separately.
- 2) The Chairperson may grant or refuse such a request at their discretion. This does not require a Council resolution.
- 3) The Chairperson may decide to put any motion to the vote in separate parts of their own volition.
- 4) A part of a motion that is put to the vote separately will not otherwise be considered to be a separate motion for the purpose of this clause.

## 6. Notices of Motion

### **Overview:**

*A Notice of Motion is a request (in the form of a Council motion) prepared by a Councillor which intends to require the Council to discuss a particular matter and/or make a decision for action to be taken.*

*Notices of Motion can only be considered at an Ordinary Meeting.*

*A Notice of Motion is a useful way for Councillor to raise an issue which doesn't require advice or a lot of consideration on an Agenda. For example, it might involve asking Council to recognise a significant achievement of a local community member which is already generally known.*

*This section outlines the rules and processes that govern the submission of Notices of Motion.*

### **6.1. Notice of Motion Arrangements**

- 1) A Councillor may submit a Notice of Motion for consideration at an Ordinary Meeting.
- 2) A Notice of Motion must be lodged in accordance with this clause 6.1.
- 3) The Councillor proposing a Notice of Motion must circulate the draft Notice of Motion (including a brief rationale) to all Councillors for information before lodging it with the Chief Executive Officer.
- 4) Evidence that a draft Notice of Motion has been circulated to all Councillors prior to being lodged with the Chief Executive Officer must be provided to the Chief Executive Officer at the time of lodging the Notice of Motion.
- 5) The full text of any Notice of Motion (including the written rationale) accepted by the Chief Executive Officer must be included in the Agenda for the next Ordinary Meeting.
- 6) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- 7) Each Notice of Motion must be considered in the order in which it is entered in the Notice of Motion register.

### **Note:**

*A draft Notice of Motion circulated to all councillors should be deemed to be confidential information in accordance with section 3 of the Act until it is determined by the Chief Executive Officer to be valid in accordance with Clause 6.2 and subsequently distributed in the agenda.*

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## 6.2. Valid Notices of Motion

A Notice of Motion must:

- a) be submitted in writing and be accompanied with a brief written rationale prepared by the Councillor outlining any relevant background for the proposed motion ;
- b) be signed (including by electronic means) and dated by the Councillor;
- c) relate to the objectives, role and functions of Council as outlined in the Act and align with the Council Plan;
- d) do no more than call for a Council report if the Notice of Motion:
  - i. affects the levels of Council service;
  - ii. is inconsistent with the strategic objectives of the Council as outlined in the Council Plan;
  - iii. commits Council to expenditure greater than \$5,000 that is not included in the Budget;
  - iv. proposes to establish, amend or extend an adopted Council policy or position;
  - v. commits Council to any contractual arrangement;
  - vi. concerns any litigation in respect of which Council is a party; or
  - vii. impacts on perceived procedural fairness to a person or entity which is the subject of a pending decision by Council;
- e) not be the same as, or similar in intent to, a Notice of Motion that has been listed on the Agenda of an Ordinary Meeting within the 6 (six) months preceding the due date for lodgement as set out in sub-clause f); and
- f) be lodged with the Chief Executive Officer no later than 12 noon at least fourteen full days prior to the Ordinary Meeting at which it is intended to be considered to allow sufficient time to include it on the Agenda.

## 6.3. Rejection of Notice of Motion

- 1) The Chief Executive Officer must reject any Notice of Motion (including the written rationale) if they are of the opinion that:
  - a) it is the same as, or similar in intent to, a Notice of Motion or other motion (including lost and lapsed motions) that has been considered by Council in the preceding six (6) months;
  - b) it is defamatory;
  - c) it is objectionable in language or nature;
  - d) it is inconsistent with Councillor Code of Conduct;
  - e) it is vague or unclear in intention;
  - f) it is outside the powers of Council;
  - g) evidence of circulation to other Councillors has not been provided to the Chief Executive Officer, as required by sub-clause 6.1 4);
  - h) it relates to a matter that can be addressed through the operational service request process. Or

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- i) does not comply with clause 6.2, or
  - j) it includes a misleading or false statement.
- 2) If rejecting a Notice of Motion (including the written rationale), the Chief Executive Officer must:
- a) inform the Councillor who lodged it of the rejection and the reasons for it;
  - b) provide the Councillor who lodged it 24 hours to amend and lodge a revised Notice of Motion; and
  - c) if the Notice of Motion cannot be amended to the satisfaction of the Chief Executive Officer, notify the Councillor who lodged it of the rejection in writing and the reasons for the rejection.

#### **6.4. Debating a Notice of Motion**

- 1) The Councillor who is the author of the Notice of Motion must move the Notice of Motion if the Councillor is present at the Ordinary Meeting at which it is to be considered.
- 2) If the author of the Notice of Motion is not present at the Ordinary Meeting at which it is to be considered, any Councillor present at the Meeting, except for the Chairperson, may move the Notice of Motion.
- 3) If a Notice of Motion is not moved and seconded at the Ordinary Meeting at which it is to be considered, it lapses.
- 4) Except where the Notice of Motion is to confirm a previous resolution of Council, the Notice of Motion may be amended.
- 5) If a Councillor who has lodged or is moving a Notice of Motion wishes to amend it, they may only do so by seeking leave of the Chairperson to amend it prior to it being seconded.
- 6) Once a Notice of Motion has been moved and seconded, neither the mover nor the seconder may amend it.
- 7) A mover and seconder of a Notice of Motion are not permitted to withdraw their moving and seconding of the Notice of Motion after debate has commenced.
- 8) Notwithstanding sub-clause 6), another Councillor may move an amendment to a Notice of Motion, which may be accepted by the mover and seconder, and must be dealt with in accordance with Section 6 of this Meeting Rules.
- 9) Any amendment made to the Notice of Motion must not be directly Opposite to the Notice of Motion.
- 10) No member of the public may make a submission on a Notice of Motion when it is presented at an Ordinary Meeting.

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## 7. Notice of Rescission or Amendment

### **Overview:**

*A notice of rescission or amendment is a form of Notice of Motion. Accordingly, all provisions in the Meeting Rules regulating Notices of Motion equally apply to notices of rescission and amendment.*

*This section describes the circumstances and procedures under which a Council decision can be rescinded or amended.*

### **7.1. Procedure for a Notice of Rescission or Amendment**

- 1) Motions to rescind or amend a previous resolution of Council can be made by:
  - a) a Councillor submitting a Notice of Motion in accordance with Section 6 of the Meeting Rules; or
  - b) a recommendation contained in an Officer's report included in the Agenda.
- 2) A Councillor may propose a motion to rescind or amend a previous resolution of Council, provided that:
  - a) the previous resolution has not been acted on, and
  - b) a notice is delivered to the Chief Executive Officer or their delegate setting out:
    - i. the relevant previous resolution to be rescinded or amended; and
    - ii. the Meeting and date when the relevant previous resolution was carried.
- 3) The Chief Executive Officer, or other Officer with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made.
- 4) A resolution of Council will be deemed to have been acted on if:
  - a) its content or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Meeting on Council's website; or
  - b) a statutory process has been commenced so as to vest enforceable rights in, or obligations on, Council or any other person.
- 5) The Chief Executive Officer or other Officer must defer implementing a resolution which:
  - a) has not been acted on; and
  - b) is the subject of a Notice of Motion to rescind or amend it which has been delivered to the Chief Executive Officer in accordance with Section 6 of the Meeting Rules, unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing Council at legal, financial or other risk.



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- 6) The lodgement and acceptance by the Chief Executive Officer of a Notice of Motion to rescind or amend a previous resolution of Council does not prevent the Chief Executive Officer or other Officer from giving notice to any person that the Notice of Motion to rescind or amend has been lodged.
  - 7) If a Notice of Motion to rescind or amend a previous resolution of Council is lost or lapses, a similar motion may not be put before Council for at least 6 (six) months from the date it was lost.
  - 8) If a Notice of Motion to rescind or amend a previous resolution of Council is not moved and/or seconded at the Meeting for which it is listed, it lapses.
  - 9) A Notice of Motion to rescind or amend a previous resolution of Council listed on an Agenda may be moved by any Councillor present, except the Chairperson, but must not be amended.

#### **7.2. Rejecting a Notice of Motion to Rescind or Amend**

If rejecting a Notice of Motion to rescind or amend a previous resolution of Council, the Chief Executive Officer must inform the Councillor who lodged it of the rejection and the reasons for it.

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## 8. Urgent Business

### 8.1. Urgent Business

- 1) Business can only be admitted as urgent business at an Ordinary Council Meeting
- 2) Business can only be admitted as urgent business through a Procedural Motion with the exception of matters of urgency as determined by the Chief Executive Officer pursuant to Clause 8.1 (3)(g).
- 3) A Procedural Motion to admit an item of urgent business can only be approved by Council if the proposed motion of urgent business:
  - a) relates to or arises out of a matter which has arisen since the distribution of the Agenda deadline to submit Notices of Motion; and
  - b) cannot safely or conveniently be deferred until the next Ordinary Meeting; and
  - c) cannot be addressed through an operational service request process; and
  - d) does not, if passed, commit the Council to any direct expenditure; and
  - e) will not, if passed, alter the Council Plan or Budget; and
  - f) will not, if passed, directly and significantly affect the exercise of a person's rights;
  - g) involves a matter that has been determined by the Chief Executive Officer as being required to be dealt with as Urgent Business and which the Chief Executive Officer admits to the agenda; or
  - h) has not been rejected as a Notice of Motion in accordance with Clause 6.3.
- 4) A proposed item of urgent business must:
  - a) be submitted in writing to the Chief Executive Officer no later than 12 noon on the day of the Ordinary Meeting at which it is to be considered,
  - b) be circulated to all Councillors for information before or at the same time as lodging it with the Chief Executive Officer;
  - c) be signed (including by electronic means) and dated by the Councillor;
  - d) relate to the objectives, role and functions of Council as outlined in the Act and align with the Council Plan; and
  - e) do no more than call for a Council report if the matter:
    - i. affects the levels of Council service;
    - ii. commits Council to any contractual arrangement; or
    - iii. concerns any litigation in respect of which Council is a party.
- 5) Any amendment to a motion of Urgent Business must be compliant with Clause 8.1 (4)(e).

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- 6) Evidence that the proposed urgent business item has been circulated to all Councillors must be provided to the Chief Executive Officer at the time of lodging the proposed urgent business item.
  - 7) The Chief Executive Officer will advise the Mayor of any matter they determine is appropriate for Council to consider admitting as urgent business.
  - 8) No member of the public may make a submission on an item of urgent business when it is presented at an Ordinary Meeting.

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## 9. Procedural Motions

### **Overview:**

*Procedural Motions allow for the process of the Meeting to be changed, within certain parameters. Suspension of standing orders is a type of Procedural Motion.*

*Standing orders are the rules made to govern the procedure at Meetings contained in the Meeting Rules.*

*The standing orders cover a range of matters including the order of business, rules of debate, Procedural Motions and election procedures. Standing orders can be suspended to facilitate the business of a Meeting but should not be used purely to dispense with the processes and protocol of the government of Council.*

### **9.1. Process for Procedural Motions**

- 1) Unless otherwise prohibited, a Procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- 2) All Procedural Motions require a mover and seconder.
- 3) The Chairperson may reject a Procedural Motion if they believe the motion before the Meeting at the time that it is moved has not been adequately or sufficiently debated.
- 4) Notwithstanding any other provision in the Meeting Rules, Procedural Motions must be dealt with in accordance with the provisions of the Schedule of Procedural Motions in clause 9.2.
- 5) A Procedural Motion may be moved and seconded by any Councillor except the Chairperson.
- 6) Unless otherwise prescribed, debate on a Procedural Motion is not permitted and the mover does not have a right of reply.
- 7) A Procedural Motion must not be amended.

## 9.2. Schedule of Procedural Motions

MOTION	FORM (WORDING OF THE MOTION)	MATTER IN RESPECT OF WHICH MOTION MAY BE MOVED	WHEN MOTION IS PROHIBITED	CAN THERE BE DEBATE	EFFECT IF CARRIED	EFFECT IF LOST
1. Changes to the order of business	That the order of business be amended as follows:	Any matter, except the - Acknowledgement of Traditional Owners, - Apologies, Disclosures of Conflicts of Interest and Confirmation of the Minutes	Not applicable	No	Change to the order of business	No change to the order of business
2. Deferral of an item of business	That consideration of [ <i>Item No, Name of Item</i> ] be deferred to [ <i>date, time</i> ]	Any matter, except the Acknowledgement of Traditional Owners, Apologies, Disclosures of Conflicts of Interest and Confirmation of the Minutes	When debate has commenced on the item of business	Yes but limited to the reasons for deferral. No right of reply	Consideration of the matter will be deferred as set out in the motion	The item of business is considered
3. Adjournment of debate to later time or date	That the debate on this matter be adjourned to [ <i>date, time</i> ]	Any matter	When another Councillor is speaking	Yes but limited to the time and date. No right of reply	Debate on motion and amendments postponed to the stated date and time	Debate continues unaffected
4. Adjournment of Meeting to later time or date	That the Meeting be adjourned to [ <i>date, time</i> ]	Any Meeting	When another Councillor is speaking	Yes but limited to the time and date. No right of reply	Meeting adjourns immediately until the stated date and time	The Meeting continues unaffected

<b>MOTION</b>	<b>FORM (WORDING OF THE MOTION)</b>	<b>MATTER IN RESPECT OF WHICH MOTION MAY BE MOVED</b>	<b>WHEN MOTION IS PROHIBITED</b>	<b>CAN THERE BE DEBATE</b>	<b>EFFECT IF CARRIED</b>	<b>EFFECT IF LOST</b>
5. The closure	That the motion be now put	Any matter	When the Chairperson believes the motion on which it has been proposed has not been adequately or sufficiently debated.	No	Motion or amendment in respect of which the closure is carried is put to the vote immediately without further debate	Debate continues unaffected
6. Continuance of Meeting	That the Meeting continue for a further 30 minutes	Any Meeting	When the Meeting has already been extended to the maximum time allowed	No	The Meeting will continue for the additional time resolved	Where all business is not disposed of, the Meeting will stand adjourned at the time of the scheduled closure
7. Extending speaking time	That the time available for the speaker be extended by a further _____ minutes	Any matter	Not applicable	No	Extend the time available for the speaker	No change to the time available for speaker
8. Urgent business	That the matter of _____ be admitted as urgent business	Any matter, subject to clause 8	If the provisions of clause 8 are not met	Yes but limited to the provisions of clause 8. No right of reply	The item is admitted to Agenda for discussion as urgent business	No change to the Agenda
9. Election of temporary Chairperson	That [ <i>name</i> ] be elected as temporary Chairperson	Not applicable	When the Chair is occupied	No	Temporary Chairperson is appointed and takes the Chair	The Meeting is unable to proceed due to the inability to appoint a Chairperson

MOTION	FORM (WORDING OF THE MOTION)	MATTER IN RESPECT OF WHICH MOTION MAY BE MOVED	WHEN MOTION IS PROHIBITED	CAN THERE BE DEBATE	EFFECT IF CARRIED	EFFECT IF LOST
10. Extending Public Question Time	That Public Question Time be extended by 30 minutes	Not applicable	Public Question Time may only be extended once per meeting	No	Public Question Time is extended by 30 minutes	Public Question Time must cease at the end of the initial 30-minute period
11. To close the Meeting pursuant to section 66(1) of the Act	That the meeting be closed pursuant to section [state relevant section] to consider [state matter]	Any matter	Not applicable	No	Meeting closed to the public	Meeting continues

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## 10. Points of Order

### **Overview:**

*A point of order is taken when a Councillor draws the attention of the Chairperson to an alleged irregularity in the proceedings. Valid points of order and the process for raising and ruling on a point of order are described in this section.*

### **10.1. Valid Points of Order**

- 1) A point of order may be raised in relation to anything which:
  - a) is contrary to the Meeting Rules;
  - b) is irrelevant to the matter under consideration;
  - c) is outside the powers of Council;
  - d) constitutes improper behaviour;
  - e) is offensive;
  - f) constitutes a tedious repetition of something already said;
  - g) is an act of disorder; or
  - h) is a misleading or false statement
- 2) Rising to express a difference of opinion or contradict a speaker is not grounds for raising a point of order.

### **10.2. Procedure for a Point of Order**

- 1) A Councillor raising a point of order must:
  - a) clearly state the point of order in accordance with the provisions of sub-clause 10.1 1) and
  - b) state any section, clause, paragraph or provision relevant to the point of order before resuming his or her seat.
- 2) If the Councillor raising the point of order does not follow the process in sub-clause 1), the point of order will not be considered.
- 3) A Councillor raising a point of order under this clause is not deemed to be speaking to the motion or amendment before the Meeting.

### **10.3. Chairperson to Decide**

- 1) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which they consider applicable to the point raised without entering into any discussion or comment.
- 2) The Chairperson's ruling on a point of order is final.



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#### **10.4. Chairperson May Adjourn to Consider**

- 1) The Chairperson may adjourn the Meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- 2) All other questions before the Meeting are suspended until the point of order is decided.

#### **10.5. Dissent from Chairperson's Ruling**

- 1) A Councillor may move a motion of dissent in the Chairperson's ruling on a point of order, without speaking to it, by moving:

“That the Chairperson's ruling [setting out that ruling or part of that ruling] be dissented from.”

- 2) A motion of dissent must be seconded, otherwise it will lapse.
- 3) If a motion of dissent is moved and seconded:
  - a) the Chairperson must leave the chair and the Deputy Mayor must chair the Meeting as the temporary Chairperson; or
  - b) if there is no Deputy Mayor, the Chairperson must leave the chair after the Meeting has elected a temporary Chairperson.
- 4) The temporary Chairperson must invite the mover of the motion of dissent to state the reasons for her or his dissent.
- 5) The temporary Chairperson must then invite the Chairperson to respond.
- 6) The mover of the motion of dissent and the Chairperson must not speak on the motion for a time longer than one (1) minute each.
- 7) No other speakers are allowed to address a motion of dissent.
- 8) The temporary Chairperson must put the motion to the vote in the following form: “That the Chairperson's ruling be dissented from.”
- 9) If the vote is in the negative, the Chairperson resumes the Chair and the Meeting proceeds.
- 10) If the vote is in the affirmative, the Chairperson resumes the Chair and must reverse or vary (as the case may be) their previous ruling and proceed.
- 11) The defeat of the Chairperson's ruling is in no way a vote of no-confidence in the Chairperson and should not be so regarded by the Meeting.



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- 7) Despite sub-clause 5), the Chairperson may permit any Councillor or person to remain seated while addressing the Chairperson at a Meeting for reasons of sickness, infirmity, disability or otherwise at her or his discretion.
  - 8) Any member of the public attending a Meeting must not interject or take part in the debate.
  - 9) Any member of the public attending a Meeting must not utter any offensive, indecent, insulting or objectionable item or words, including words that are racist, sexist or homophobic, or interject or gesticulate offensively in the Council Chamber.
  - 10) Silence must be preserved by the gallery (other than by a person in the gallery who is invited to address the Meeting) at all times during a Meeting.
  - 11) If any member of the public engages in conduct that is improper or disorderly, the Chairperson may direct that person to cease their conduct and the person must comply with that direction.

### **11.3. Chairperson May Remove a Member of the Public**

- 1) The Chairperson may order and cause the removal of any person, other than a Councillor, who disrupts any Meeting or fails to comply with a direction of the Chairperson.
- 2) In causing a person's removal under sub-clause 1 , or the removal of an object or material under clause 11.1, the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the person or the object or material.
- 3) A person must not refuse or neglect to leave a Meeting, or to remove an object or material, when ordered by the Chairperson.

### **11.4. Disorderly Conduct by Councillors**

- 1) The conduct of Councillors at Meetings is governed by the Act, this Meeting Rules and the Councillor Code of Conduct.
- 2) Where a Councillor engages in improper or disorderly conduct or acts in a way that otherwise disrupts a Meeting, or impedes its orderly conduct, Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has first warned the Councillor to cease that behaviour.
- 3) Where Council suspends a Councillor under sub-clause 2), the Councillor will take no active part in the portion of the Meeting from which she or he has been suspended.
- 4) The Chairperson, or Council by resolution, may order and cause the removal of a Councillor who has been suspended under sub-clause 2) from the Meeting for the duration of the suspension.

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- 5) In causing the removal of a Councillor under sub-clause 4), the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.
  - 6) A Councillor must not refuse or neglect to leave a meeting when ordered to do so under sub-clause 4).

#### **11.5. Chairperson May Adjourn Disorderly Meeting**

- 1) The Chairperson may adjourn the Meeting for either a short time, or to resume another day, if the behaviour at the Council table or in the gallery is significantly disrupting the Meeting.
- 2) If the Chairperson adjourns the Meeting to another day, clause 1.1.5 applies with respect to the provision of notice of the adjourned Meeting.

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## **12. Minutes**

### **12.1. Keeping Minutes**

The Chief Executive Officer shall ensure that Minutes are kept of each Meeting.

### **12.2. Confirmation of Minutes**

- 1) When confirming the Minutes of a Meeting, opposition can only be expressed on the basis that the record contained in the Minutes is incomplete or inaccurate.
- 2) The Chairperson must not allow discussion or motions on any issue other than an alleged omission from, or inaccuracy of, the Minutes.
- 3) If no Councillor indicates opposition, the Chairperson must, after seeking a mover and seconder, declare the Minutes to be confirmed.
- 4) If any Councillor indicates opposition, he or she must specify the particular item or items in the Minutes concerned and can, after asking any questions to clarify the matter, only move a motion to rectify the alleged error(s) in the record.
- 5) A copy of the Minutes shall be sent electronically to every Councillor and placed on the Council website no later than seven (7) days after the Meeting to which they relate.
- 6) The minutes of an Ordinary or Special Council Meeting or of a meeting of any Delegated Committee comprised entirely of Councillors will be defined as 'unconfirmed minutes' until they are formally confirmed at the next Ordinary Meeting
- 7) Once the Minutes are confirmed, they must be signed by the Chairperson of the Meeting at which they were confirmed.

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## 13. Webcasting and Recording of Proceedings

### 13.1. Webcasting and Recording of Proceedings

- 1) The Chief Executive Officer (or their delegate or nominee) may, for the purposes of minute taking, transparency and accessibility of Meetings to the public, record on suitable audio recording equipment all proceedings of a Meeting.
- 2) The Chief Executive Officer (or such other person authorised by the Chief Executive Officer for that purpose) will conduct a live webcast of the proceedings of a Meeting.
- 3) A recording of a Meeting that is webcast will be made available to the public on Council's website for viewing or listening for a period of four years from the date of the Meeting.
- 4) A person in the gallery must not operate film, photographic, tape or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson. In deciding whether or not to give such consent, the Chairperson is to ask whether any person present at the Meeting objects.
- 5) Consent given under sub-clause 4) may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease, at which time the recording must cease.
- 6) This clause does not apply to any part of a Meeting that is closed to the public in accordance with section 66(1).

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## 14. Submissions

### **Overview:**

*There are several powers conferred on Council which require a public submissions process– these include the adoption of key Council documents (such as the Council Plan and Budget), proposals to sell Council land, the closure of roads and the making of Local Laws or Rules. This public submission process will be defined in Councils Community Engagement Policy and requires Council to give public notice of the proposal and to consider (and hear if requested) submissions received before making a final decision on the particular matter. The hearing of these submissions are generally dealt with by Councils Hearings Committee (a Delegated Committee of Council pursuant to the Act).*

*In addition to these statutory public submissions processes, and the process established in relation to planning matters (i.e. where Applicants and Objectors to Planning Matters are afforded the opportunity to make submission before Councils Planning Committee (a Delegated Committee of Council pursuant to the Act). Council has also established a submission process at Ordinary Meetings that enables community members to provide input on certain matters listed on the Agenda, prior to their consideration by Council.*

### **14.1. Community Submissions**

- 1) Members of the public may only address an Ordinary Meeting in accordance with the provisions of the Meeting Rules.
- 2) Members of the public will be given the opportunity to make a submission in relation to matters listed on the Agenda for an Ordinary Meeting except for Notices of Motion, Petitions and urgent business.
- 3) Submissions may be presented immediately prior to the Agenda item being considered and prior to any motions relating to the item being accepted.
- 4) Submissions may, at the discretion of the Chairperson, be made during Public Question Time if all questions have been asked and answered and there is time remaining. Priority will be given to public questions during Public Question Time.
- 5) Submissions are not able to be made during:
  - a) any period when a Meeting is closed to the public in accordance with section 66(1) of the Act; or
  - b) a local government election or caretaker period as defined in Council's Election Period Policy.

### **14.2. Submissions to Delegated Committees**

Submissions to any Delegated Committee will be governed by the processes outlined in the Delegated Committee's Charter or as determined by the Delegated Committee.

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### **14.3. Registering to Make a Submission**

- 1) Members of the public wishing to make a submission may register their intention to do so before 12 noon on the day of the Meeting or attend on the day of the Meeting to make their submission.
- 2) Submissions can be lodged using one of the following methods:
  - online at [www.darebin.vic.gov.au/questionsandsubmissions](http://www.darebin.vic.gov.au/questionsandsubmissions);
  - by email to [Q&S@darebin.vic.gov.au](mailto:Q&S@darebin.vic.gov.au);
  - in person at the Preston Customer Service Centre, 274 Gower Street, Preston; or
  - by mail to PO Box 91, Preston 3072.

### **14.4. Validity of Submissions**

- 1) A submission will be disallowed by the Chairperson if they determine that it:
  - a) relates to a matter outside the duties, functions or powers of Council;
  - b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - c) may lead to a breach of Council's statutory obligations;
  - d) does not relate to a matter listed on the Agenda;
  - e) relates to a Notice of Motion, Petition or item of urgent business;
  - f) is aimed at embarrassing a Councillor or an Officer; or
  - g) deals with a matter that should be, or has been, considered as a confidential matter or relates to any matter in respect of which Council may close the Meeting to the public under section 66(1) of the Act.
- 2) No submissions directed at an individual Councillor or Officer will be allowed.

### **14.5. Making a Submission**

- 1) Persons wishing to make a submission must be present in the gallery during the Meeting, either in person or by representative.
- 2) If the person wishing to make a submission or their representative is not present in the gallery when the Agenda item is to be considered, their submission will not be read out.
- 3) Submissions must be directed through the Chairperson and must not be directed to individual Councillors or Officers.
- 4) Submissions must be as brief as possible (not longer than two (2) minutes).
- 5) The Chairperson may, at their absolute discretion, extend the time for an individual's submission beyond two (2) minutes.
- 6) The person making the submission must clearly state their name and their suburb.
- 7) The name of the submitter must be recorded in the Minutes, as an official record.
- 8) The content of submissions and any subsequent discussion will not be recorded in the Minutes.



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## 15. Public Questions

### **Overview:**

*As outlined in the purpose of the Meeting Rules, Council Meetings are held for Council to make its decisions. Members of the public do not have a right to address Council except under the provisions of Sections 15 and 16 of the Meeting Rules.*

*At each Ordinary Council Meeting, there is an opportunity for members of the public to ask questions of the Council. This section sets out the procedures to be followed to submit a question, the circumstances under which a question may be disallowed and the process for addressing and responding to the question at or after the Meeting.*

### **15.1. Public Question Time**

- 1) Subject to sub-clause 2), and any resolution of Council to the contrary, there must be Public Question Time at every Ordinary Meeting to enable members of the public to submit questions to Council.
- 2) Public Question Time will not be held during:
  - a) any period when a Meeting is closed to the public in accordance with section 66 of the Act; or
  - b) a local government election or caretaker period as defined in the Councils Election Period Policy
- 3) Public Question Time will not exceed 30 minutes in duration unless extended by resolution of Council through a Procedural Motion, in which case, it may only be extended for one (1) period of up to 30 minutes.

### **15.2. Lodging a Question**

- 1) Members of the public wishing to ask a question may register their question using the Public Question Time form before 12 noon on the day of the meeting or attend on the day of the meeting to ask their question.
- 2) Questions can be lodged using one of the following methods:
  - online at [darebin.vic.gov.au/questions](http://darebin.vic.gov.au/questions) and submissions;
  - by email to [Q&S@darebin.vic.gov.au](mailto:Q&S@darebin.vic.gov.au);
  - in person at the Preston Customer Service Centre, 274 Gower Street, Preston; or
  - by mail to PO Box 91, Preston 3072.
- 3) Late questions will not be accepted.
- 4) A maximum of three (3) questions is permitted per person (with no sub parts).
- 5) If more than three (3) questions are received from one person, only the first three questions will be considered.

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- 6) A further question arising out of anything said in response to a question will be allowed.

A question may not be split into sub-parts.

- 7) Like questions may be grouped together and a single answer provided.

### **15.3. Questions Not Permitted**

- 1) A question may be disallowed by the Chairperson if the Chairperson determines that it:
  - a) relates to a matter outside the duties, functions or powers of Council;
  - b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - c) may lead to a breach of Council's statutory obligations;
  - d) relates to a Notice of Motion, Petition or item of urgent business;
  - e) deals with a subject matter already answered;
  - f) is aimed at embarrassing a Councillor or an Officer; or
  - g) deals with a matter that should be, or has been, considered as a confidential matter or relates to any matter in respect of which Council may close the Meeting to the public under section 66 of the Act.
- 2) No questions directed at an individual Councillor or Officer will be allowed.

### **15.4. Asking a Question**

- 1) If a person submitting a question is not present in the gallery during Public Question Time, their questions will be read out and a response provided at the Meeting or taken on notice and a written response provided after the Meeting, as determined by the Chairperson.
- 2) When invited by the Chairperson, the person asking their questions may do so, without taking longer than two (2) minutes in total.
- 3) No introductory or background statements are permitted.
- 4) Questions must be directed through the Chairperson and must not be directed to individual Councillors or Officers.
- 5) The person asking the question must clearly state their name and their suburb.
- 6) The Chairperson may elect to answer the question themselves or request the Chief Executive Officer or any other Officer to respond to a question.
- 7) The Chairperson, Chief Executive Officer or Officer may require a question to be taken on notice. If a question is taken on notice, a written copy of the answer will be sent to the person who asked the question.
- 8) The name of the questioner, the question (excluding introductory or background comments) and the response must be recorded in the Minutes, as an official record of the questions submitted to the Meeting.

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- 9) Where a question is taken on notice, the response will be recorded in the Minutes of the next Ordinary Meeting after the response has been provided.
  - 10) Where a question is taken on notice, the response will be recorded in the Minutes of the next Ordinary Meeting after the response has been provided.

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## 16. Petitions

### **Overview:**

*Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council. This section sets out the procedures to be followed to submit a petition.*

### **16.1. Valid Petitions**

- 1) Every Petition submitted to Council must:
  - a) be in legible and in a permanent form of writing, typing or printing;
  - b) not be derogatory, defamatory, indecent, abusive or objectionable in language or substance;
  - c) not relate to matters outside the powers of Council;
  - d) clearly state the request or describe the action that Council is asked to undertake on each page of the Petition and include the name, address and signature of petitioners; and
  - e) include the names, full addresses (either postal or electronic) and original signatures of at least 10 people.
- 2) Where a Petition has been signed by fewer than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate Officer for action as an operational item. These will not be tabled at Ordinary Meetings.
- 3) A petition generated via an online or electronic process that does not contain the signatures of the persons who are represented as having supported it will be accepted only if it complies with all other provisions of sub-clause 1).
- 4) A person must not inscribe upon a Petition a name or signature purporting to be the name or signature of another person.
- 5) Any signature appearing on a page which does not bear the text of the whole of the Petition or request will not be considered by Council.
- 6) Every page of a Petition must be a single-or double-sided page of paper and not be attached to any piece of paper other than another page of the Petition.

### **16.2. Tabling Petitions**

- 1) A petition may only be presented to an Ordinary Meeting by a Councillor.
- 2) Any Councillor presenting a Petition is responsible for ensuring that:
  - a) they are familiar with the contents and purpose of the Petition; and
  - b) the Petition meets the requirements of clause 16.1.

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- 3) Any Councillor, except the Chairperson, may present a Petition to an Ordinary Meeting and must confine themselves to a statement of the:
    - a) persons from whom it comes;
    - b) number of signatories to it;
    - c) material matters expressed in it; and
    - d) text of the Petition.
  - 4) A Petition tabled by a Councillor at an Ordinary Meeting may be dealt with as follows:

A motion may be proposed to accept and note the Petition and resolve to:

    - i. deal with it in conjunction with an item on the Agenda; or
    - ii. refer it to the Chief Executive Officer for consideration and response; or
    - iii. call for a report on the subject matter of the Petition.
  - 5) If a Petition relates to an operational or service matter, Council must only resolve to refer it to the Chief Executive Officer for consideration.
  - 6) No member of the public is permitted to speak to a Petition when presented at an Ordinary Meeting or ask a question pertaining to the Petition during Public Question Time.

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## 17. Election Procedures

**Overview:**

*The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council Meetings, is the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties.*

*The purpose of this section is to regulate proceedings for the election of the Mayor and the Deputy Mayor (if any).*

### 17.1. Procedures for Election of the Mayor

- 1) The election of the Mayor will be conducted by the Chief Executive Officer in accordance with the provisions of the Act.
- 2) The Chief Executive Officer must invite nominations for the office of Mayor.
- 3) The nomination of a candidate must be moved and seconded and the candidate must consent to their nomination.
- 4) If a person nominated does not consent to the nomination, it must not be accepted by the Chief Executive Officer.
- 5) No Councillor is permitted to speak to the nominations (including candidates) prior to the election result being declared by the Chief Executive Officer.
- 6) If there is only one nomination, the candidate nominated is deemed to be elected.
- 7) If there is more than one nomination, a vote must be taken to elect one of the candidates.
- 8) Voting must be carried out by a show of hands.
- 9) If one candidate receives a Majority of the Votes, that candidate is declared to have been elected.
- 10) If no candidate receives a Majority of the Votes, the candidate with the fewest number of votes is declared to be a defeated candidate. A further vote will then be held for the remaining candidates. This process shall continue until one of the candidates has received a Majority of the Votes. That candidate is then declared to have been elected.
- 11) In the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the Chief Executive Officer must determine the result by lot.
- 12) The following provisions apply to the conduct of the lot by the Chief Executive Officer:
  - a) each candidate will draw one lot;

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- b) the order of drawing lots will be determined by the alphabetical order of the surnames of the candidates who received an equal number of votes, except that, if two or more candidates' surnames are identical, the order will be determined by the alphabetical order of the candidates' first names;
  - c) as many identical pieces of paper as there are candidates who receive an equal number of votes must be placed in a receptacle;
  - d) the word 'Defeated' shall be written on one of the pieces of paper;
  - e) the candidate who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate (in which event a further vote will be held for the remaining candidates and the above process repeated if necessary, unless there is only one candidate remaining, in which case that candidate will be declared duly elected); and
  - f) the Chief Executive Officer will declare the result of the election and the successful candidate.

#### **17.2. Ceremonial Mayoral Speech**

- 1) Upon being elected, the Mayor may make a ceremonial speech.
- 2) The purpose of the ceremonial speech is to outline priorities for the year ahead based on the adopted Council Plan.
- 3) The ceremonial speech must not exceed five (5) minutes.

#### **17.3. Mayor to Take Chair**

After the election of the Mayor, the Mayor must take the chair in accordance with section 18 of the Act.

#### **17.4. Role and Procedures for Election of Deputy Mayor**

- 1) At the Meeting at which the Mayor is to be elected, Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- 2) The term of a Deputy Mayor is to be identical to the term of the Mayor as resolved by Council.
- 3) If Council has not resolved to establish the position of Deputy Mayor, any provisions in the Meeting Rules relating to the Deputy Mayor have no effect.
- 4) The procedure used for the election of Mayor will be used to elect the Deputy Mayor, except that:
  - a) the Mayor will conduct the election of Deputy Mayor; and
  - b) any references to the office of the Mayor shall be taken as a reference to the Deputy Mayor.

### **Relevant Provisions of the Local Government Act 2020**

*The Act has specific provisions governing the election of the Mayor and the term of office for the Mayor:*

#### **Section 25 - Election of Mayor**

- (1) At a Council meeting that is open to the public, the Councillors must elect a Councillor to be the Mayor of the Council.*
- (2) Subject to section 167, any Councillor is eligible for election or re-election to the office of Mayor.*
- (3) The election of the Mayor must—*
  - (a) be chaired by the Chief Executive Officer; and*
  - (b) subject to this section, be conducted in accordance with the Governance Rules.*
- (4) Subject to subsections (5) and (6), the Mayor must be elected by an absolute majority of the Councillors.*
- (5) If an absolute majority of the Councillors cannot be obtained at the meeting, the Council may resolve to conduct a new election at a later specified time and date.*
- (6) If only one Councillor is a candidate for Mayor, the meeting must declare that Councillor to be duly elected as Mayor.*
- (7) In this section, **absolute majority** means the number of Councillors which is greater than half the total number of the Councillors of a Council.*

#### **Section 26 - When is a Mayor to be elected?**

- (1) A Mayor is to be elected no later than one month after the date of a general election.*
- (2) The Mayor of the Greater Geelong City Council must be elected for a 2 year term.*
- (3) Before the election of the Mayor, a Council, other than the Greater Geelong City Council, must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.*
- (4) If the Mayor is elected for a 1 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 1 year term as is reasonably practicable.*
- (5) If the Mayor is to be elected for a 2 year term, the next election of the Mayor must be held on a day to be determined by the Council that is as close to the end of the 2 year term as is reasonably practicable.*



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(6) *A Mayor is to be elected within one month after any vacancy in the office of Mayor occurs.*

(7) *The election of a Mayor after the period specified in this section does not invalidate the election.*

(8) *A Councillor elected to fill a vacancy in the office of Mayor caused other than by the expiration of a one year or a 2 year term serves the remaining period of the previous Mayor's term.*

**27 - Election of Deputy Mayor**

(1) *Section 25, other than subsection (3)(a), applies to the election of a Deputy Mayor by the Councillors as if any reference in that section to the Mayor was a reference to the Deputy Mayor.*

(2) *Section 26 applies to the election of a Deputy Mayor as if any reference in that section to the Mayor was a reference to the Deputy Mayor.*

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## CHAPTER 4 – DELEGATED COMMITTEES

### **Overview Notes:**

*Council may establish Delegated Committees and Advisory Committees as part of its governance framework. Delegated Committees can comprise Councillors, members of Council staff and others and must be chaired by a Councillor. As Council may delegate specific powers, duties and functions to Delegated Committees, their meeting procedures need to be formal.*

- (1) If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee Meetings with any necessary modifications.
- (2) For the purpose of sub-rule (1):
  - a) a Council meeting is to be read as a reference to a Delegated Committee Meeting;
  - b) a Councillor is to be read as a reference to a Member of the Delegated Committee;  
and
  - c) a reference to the Mayor is to be read as a reference to the Chairperson of the Delegated Committee.
- (3) If Council establishes a Delegated Committee, Council may resolve that a provision of these Governance Rules and, including the Meeting Rules, does not apply to that Committee

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## CHAPTER 5 – CONFLICTS OF INTEREST

### **Overview Notes:**

*The Act in sections 127 and 128 defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.<sup>3</sup>*

*The Act also provides Council must include in its Governance Rules procedures for disclosures of Conflicts of interest, including at meetings conducted under the auspices of Council that are not Council meetings. Meetings conducted under the auspices of Council include those meetings arranged or hosted by Council.*

*These Rules provide the procedures for disclosures of conflicts of interest.*

### **5.1 Obligations with regard to conflict of interest:**

Councillors, members of Delegated Committees and Council staff and contractors are required to:

- (1) avoid - if possible, situations which may give rise to conflicts of interest;
- (2) identify - any conflicts of interest; and
- (3) disclose or declare - all conflicts of interest.

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#### <sup>3</sup> **127 General conflict of interest**

(1) Subject to section 129, a relevant person has a

**general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

(2) For the purposes of subsection (1)—

**private interests** means any direct or indirect interest of a relevant person that does not derive from their public duty and does not include an interest that is only a matter of personal opinion or belief;

**public duty** means the responsibilities and obligations that a relevant person has to members of the public in their role as a relevant person.

#### **128 Material conflict of interest**

(1) Subject to section 129, a relevant person has a

**material conflict of interest** in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

(2) The benefit may arise or the loss incurred—

- (a) directly or indirectly; or
- (b) in a pecuniary or non-pecuniary form.

(3) For the purposes of this section, any of the following is an **affected person**—

- (a) the relevant person;
- (b) a family member of the relevant person;
- (c) a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body;
- (d) an employer of the relevant person, unless the employer is a public body;
- (e) a business partner of the relevant person;
- (f) a person for whom the relevant person is a consultant, contractor or agent;
- (g) a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee;
- (h) a person from whom the relevant person has received a disclosable gift.

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## 5.2 Councillors and Members of Delegated Committees

- (1) May not participate in discussion or decision-making on a matter in which they have a conflict of interest.
- (2) When disclosing a conflict of interest, Councillors must clearly state their connection to the matter.
- (3) All disclosures of conflicts of interest will be recorded in the minutes of a Council or Delegated Committee Meeting.

## 5.3 Procedure at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Council Meeting* or Delegated Committee or Community Asset Committee at which he or she:

- (1) is present must disclose the conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* at the point in the meeting where Chairperson requests 'Declarations of Conflicts of Interest to be Made' and immediately before the matter is considered;

or

- (2) intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:
  - a) advising of the conflict of interest;
  - b) explaining the nature of the conflict of interest; and
  - c) detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
    - i. name of the other person;
    - ii. nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
    - iii. nature of that other person's interest in the matter,

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

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

## 5.4 Procedure at other meetings held under the auspices of the Council

A Councillor who has a conflict of interest in a matter being considered by a meeting held under the auspices of *Council* at which he or she is present must:

- 
- (1) disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
  - (2) absent himself or herself from any discussion of the matter; and
  - (3) as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.
  - (4) the Chief Executive Officer or delegate will maintain a register of such conflict of interest disclosures

### **5.5 Council staff**

- (1) Must act in accordance with the Employee Code of Conduct.
- (2) Must not exercise a delegation or make a decision on any matter where they have a conflict of interest.
- (3) May be permitted to provide advice to a decision maker if a conflict of interest exists, subject to the procedure and disclosure provisions at Rule 5.6 and the Employee Code of Conduct.

### **5.6 Procedures for disclosures of conflicts of interest by Council Staff**

#### Disclosure by Members of Council Staff Preparing Reports for Meetings

- (1) A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration at a:
  - (2) *Council meeting*;
  - (3) *Delegated Committee* meeting;
  - (4) *Community Asset Committee* meeting

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest, explaining the nature of the conflict of interest and comply with any process or procedure required by the *Chief Executive Officer* to appropriately manage the conflict of interest

- (5) The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 5.6 (1) records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

- 
- (6) If the member of Council staff referred to in sub-Rule 5.6(1) is the *Chief Executive Officer*:
    - a) the written notice referred to in sub-Rule 5.6 (4) must be given to the *Mayor*; and
    - b) the obligation imposed by sub-Rule 5.6 (5) may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

- (1) A member of Council staff who has a conflict of interest in a matter where they are the delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and comply with any process or procedure required by the *Chief Executive Officer* to appropriately manage the conflict of interest
- (2) If the member of Council staff referred to in sub-Rule 5.7 is the *Chief Executive Officer*, the written notice must be given to the *Mayor*.

### **5.8 Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

- (1) A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act and they are the delegate must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and comply with any process or procedure required by the *Chief Executive Officer* to appropriately manage the conflict of interest
- (2) If the member of Council staff referred to in sub-Rule 5.8 is the *Chief Executive Officer*, the written notice must be given to the *Mayor*.

### **5.9 Retention of Written Notices**

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

### **5.10 Contractors and Consultants**

- (1) All Contractors and consultants engaged by Council to provide advice to the decision making process will be required to disclose conflicts of interest
- (2) A Contractor or consultant who discloses a conflict of interest will not be engaged to provide advice on that matter unless;
  - a) the conflict is so remote or insignificant it could not be considered to influence the advice being provided; or

- 
- b) there are no other contractors or consultants reasonably available and qualified to provide the technical advice required; and
  - c) the conflict of interest is documented in all advice provided by that contractor or consultant.

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## CHAPTER 6 – DELEGATIONS

### **Overview Notes:**

*Council can make decisions (act) in two ways*

- *by resolution at a Council meeting or*
- *by delegation (others acting on its behalf).*

*The Act provides for Council to delegate to the Chief Executive Officer. Delegation of Council powers to the Chief Executive Officer and other members of Council staff is a long-established practice to enable day to day operational decisions to be made efficiently.*

*Delegation of Council powers is primarily enabled and regulated by the Act, however powers, duties and functions may be delegated from a range of other Acts, Regulations and local laws.*

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

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

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



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## CHAPTER 7 - JOINT COUNCIL MEETINGS

### **Overview Notes:**

*Regional collaboration provides benefits to the Darebin community through collective procurement, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it's possible for the participating Councils to make their own decisions and determinations, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for in section 62 of the Act<sup>4</sup>.*

- (1) Council may resolve to participate in a Joint Council meeting.
- (2) If Council has resolved to participate in a Joint Council meeting, the Chief Executive Officer (or delegate) will agree on governance rules with the participating Councils.
- (3) Where the participating Councils agree that Darebin will chair a Joint Council Meeting, the Mayor of Darebin will Chair the Joint Council meeting.

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#### <sup>4</sup> 62 Joint meetings of Councils

- (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.

## CHAPTER 8 – WHAT INFORMS DECISION MAKING

### **Overview Notes:**

*Advisory Committees play a key role in connecting community views and experts with the decision-making processes of Council.*

*These committees:*

- *provide advice to Council and to Council officers exercising delegation to make decisions or implement policy;*
- *are usually comprised of community members and Councillors, and may sometimes include representatives of community organisations; and*
- *are essential forums to provide input to the development of Council policy and decision making in their areas of focus.*

*Reporting of the activities of these committees to Council is a transparency mechanism.*

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

*This section also provides for the appointment of Councillors as members of committees established by the Council, and as Council representatives or delegates on external committees and organisations.*

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

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

*Councils Audit and Risk Committee is an advisory committee established in accordance with section 53 and 54 of the Act to assist Council in fulfilling its responsibilities relating to external financial and performance reporting, risk and financial management, corporate governance, internal controls systems and providing advice to drive continuous improvement. It does not have any delegated powers, including executive powers, management functions, or delegated financial responsibility.*

### **8.1 Advisory Committees**

#### **8.1.1 Role and Term of Advisory Committees**

- (1) In the first year of each Council term, Council will establish its Advisory Committees for the next four years.
- (2) Advisory Committees established by Council will be consulted for input on related policy, strategy or major operational proposals.
- (3) Advisory Committees established by Council will be chaired by a Councillor appointed in accordance with Rule 9.1.2,

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- (4) Each Advisory Committee will be established in accordance with Operating Guidelines for Advisory Committees endorsed by Council that at a minimum will prescribe:
    - a) membership terms that provide for renewal of membership and continuity of contribution, with provision for initial appointments to support rotation of memberships.
    - b) inclusive and transparent recruitment processes for community member membership and participation.
    - c) requirements for disclosures of conflicts of interest.
    - d) a description of the roles of members including attendance and participation requirements, role of the committee, councillor chair, reporting requirements and confidentiality
  - (5) Any person appointed to an Advisory Committee that nominates for election to Council, State Parliament or Federal Parliament must take leave of absence from their Committee position from the time of declaring they have nominated (or intend to nominate). If elected, they will be deemed to have resigned from the Committee.
  - (6) In order to maintain transparency of Advisory Committee operations, the following information is to be published on Council's website in respect of each Advisory Committee:
    - a) the Terms of Reference
    - b) the names of all members
    - c) reports of Committee activities (as reported biannually to Council
  - (7) All Advisory Committees established by Council, except the Audit and Risk Committee, will sunset on 30 June following each General Council election, unless they have been re-established in the new Council term.

### **8.1.2 Appointment of Councillors to Advisory Committees and External Committees and Organisations**

At the next Ordinary Council Meeting after the Meeting at which the Mayor is elected, or at a Council Meeting held as soon as practicable after that Meeting, Council must:

- (1) appoint Councillors as members of, or representatives on, committees established by Council;
- (2) appoint Councillors as delegates to external committees and organisations; and

## **8.2 Council Reports**

- (1) The Chief Executive Officer will determine the form of reports to Council prepared for inclusion in the agenda for a Council or Delegated Committee meeting.
- (2) Reports presented to Council for consideration and decision will address where relevant the following report template headings:-
  - Executive Summary
  - Background / Key Information
  - Previous Council resolutions
  - Communications and Engagement
  - Analysis

- 
- Alignment to Council Plan / Council Policy
  - Environmental & Sustainability Considerations
  - Cultural Considerations
  - Economic Development Considerations
  - Financial and Resource Implications
  - Legal and Risk Implications
  - Operational Impacts
  - Discussion
  - Options for Consideration
  - Implementation Strategy
  - Related Documents
  - Attachments

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## CHAPTER 9 – OTHER MEETINGS OF COUNCILLORS / CONFIDENTIAL INFORMATION

### (1) Advisory Committees and other Informal Meetings of Councillors

For any meeting of an Advisory Committee established by Council attended by at least one Councillor or a scheduled or planned meeting to discuss the business of *Council* or to brief Councillors, and which is attended by at least half of the Councillors and one member of Council staff; and which is not a *Council meeting*, *Delegated Committee* meeting or *Community Asset Committee* meeting the *Chief Executive Officer* must ensure that a summary of the meeting is:-

- a) Tabled at the next convenient Council meeting; and
- b) Recorded in the minutes of that Council meeting.

The summary of the meeting will include

- a) The time, date and location of the meeting.
- b) The councillors in attendance.
- c) The topics discussed.
- d) The positions of council officers in attendance
- e) The organisation that any attendees external to council are representing; and
- f) Any conflicts of interest declared, including the reason

### (2) Confidential Information

If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.

Information which has been designated by the *Chief Executive Officer* as confidential information within the meaning of the *Act*, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

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## CHAPTER 10 – COMMUNITY ASSET COMMITTEES

### **Overview Notes:**

*The Act provides for Council to establish a community asset committee for the management of a community asset such as a hall.*

*Council may appoint members of the community to the committee and delegate to it powers, duties or functions.*

*The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.*

- 1) The Governance Rules will apply to any Community Asset Committee established by Council.
- 2) Council may resolve, in establishing a Community Asset Committee, that the meeting procedure chapter of these Governance Rules does not apply.
- 3) A Community Asset Committee must report the minutes of all Committee Meetings to the next practicable Council meeting.
- 4) A Community Asset Committee must act in accordance with its adopted Charter, Instrument of Delegation, any Terms of Reference adopted by Council, and the Act (in particular sections 65 and 47<sup>5</sup>)

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### <sup>5</sup> **65 Community Asset Committee**

(1) A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).

(2) A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.

**Note** - See section 47 for delegation to members of a Community Asset Committee by the Chief Executive Officer.

### **47 Delegations by Chief Executive Officer**

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

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

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

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## CHAPTER 11 – ELECTION PERIODS

### **Overview Notes:**

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

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

### **11.1 Election Periods Generally**

- 1) Council in accordance with section 69 of the Act<sup>6</sup> will have in place an election period policy that:
  - a) governs decision making during a local government election period, including what may be considered at a Council meeting;
  - b) prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - c) sets out the conditions for any community engagement required to be undertaken during an election period, including consultations and Civic events sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - d) defines roles and responsibilities in relation to who is the spokesperson for Council during an election period; and
  - e) sets out the requirements for a Councillor who is a candidate in an election including a Federal, State or Council election.
- 2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- 3) The Election Period Policy forms part of these Governance Rules.
- 4). The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.

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#### **<sup>6</sup> 69 Governance Rules to include election period policy**

(1) A Council must include an election period policy in its Governance Rules.

(2) An election period policy must prohibit any Council decision during the election period for a general election that—

(a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or

(b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or

(c) the Council considers could be reasonably deferred until the next Council is in place; or

(d) the Council considers should not be made during an election period.

(3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

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- 5) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

## 11.2 Election Period Policy

### 1. Introduction

The *Local Government Act 2020* (the Act) in section 60 requires Council to develop, adopt and keep in force Governance Rules for or with respect to an election period policy in accordance with section 69 of the Act.

### 2. Context

Under Section 69(2) of the Act, an election period policy must prohibit any Council decision during the election period for a general election that—:

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

A Council decision made in contravention of subsection (a) or (b) above is invalid. And any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of it contravening Section 69(2) is entitled to compensation from the Council for that loss or damage.<sup>7</sup>

Under Section 69(3) of the Act the election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

Section 304 of the Act states:

- (1) a Councillor or member of Council staff must not use Council resources in a way that—
  - a) is intended to; or
  - b) is likely to—affect the result of an election under this Act; and
- (2) a Councillor or member of Council staff must not use Council resources to intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed any electoral material during the election period on behalf of, or purporting to be on behalf of, the Council.

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<sup>7</sup> Section 69(5)



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This does not include material that only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

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

### **3. Objectives**

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

### **4. Application**

#### **Candidates for Elections**

Councillors must comply with this policy, regardless of whether they intend to nominate or have already nominated as candidates for election.

Council Officers who are candidates for election must comply with this policy and in addition:

- (a) take leave from their duties for the duration of the election period in accordance with section 256(8) of the Act (if not enough paid leave is accrued, unpaid leave will be available).
- (b) return any council equipment (including, but not limited to, motor vehicles, telephones and computers), documents or information which is not available to the public for the duration of the election period.
- (c) immediately resign upon election in accordance with s 256(8) of the Act.

Council committee members who are candidates for election are expected to comply with this policy and in addition:

- (d) submit apologies for any committee meetings or other activities held during the election period.
- (e) return any council equipment, documents or information which is not available to the public for the duration of the election period.
- (f) immediately resign from the committee upon election.

Other candidates for election are expected to comply with the obligations of this policy where they apply.

### **5. Policy Details**

#### **5.1 Election Caretaker Period**

During the 'Election Period' for a General Election the Council will be deemed to be in 'Caretaker Mode'.

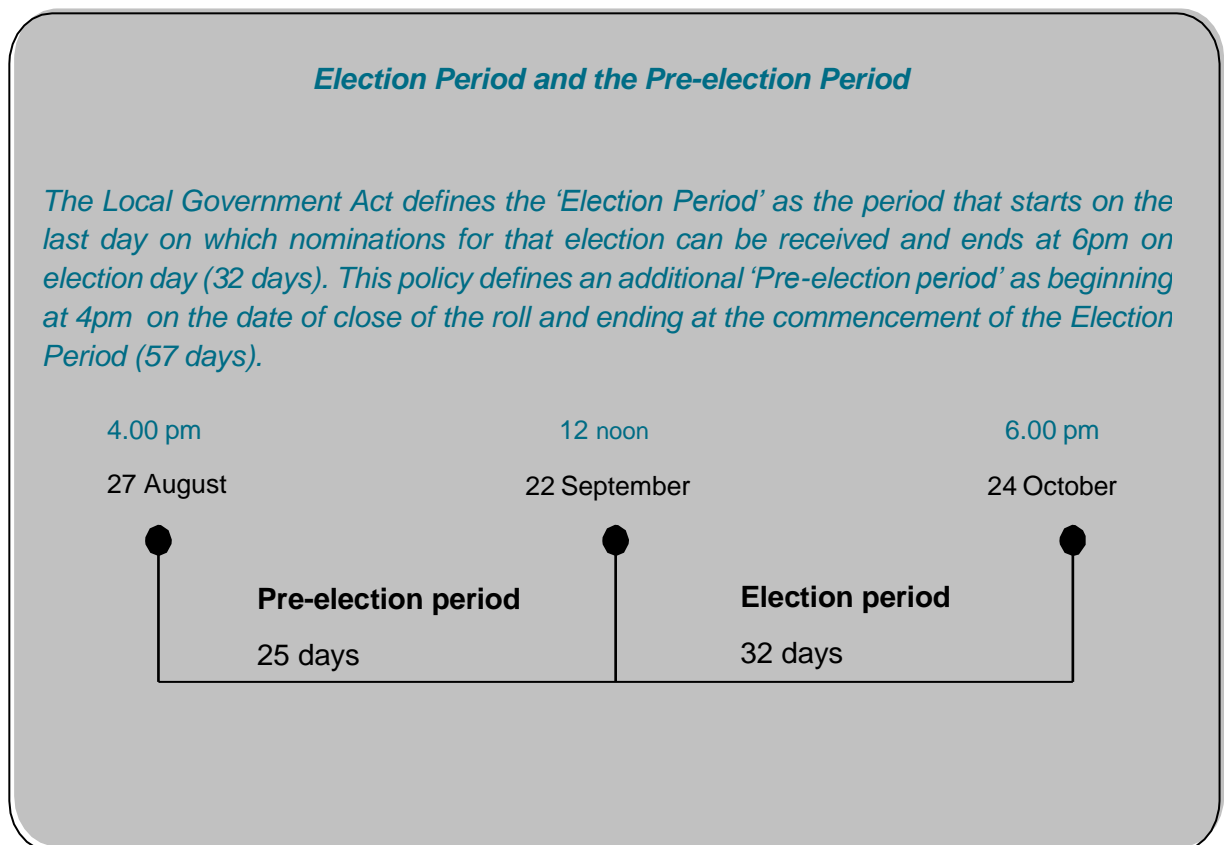
The Act defines the Election Period to mean the period that—

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

This policy defines an additional ‘Pre-Election Period’ – in addition to the 32 days – which will commence on the date legislated for the close of the roll – 57 days before the election day.

The Election Period and Pre-Election Period are graphically depicted below.

This approach is consistent with the Election Period Policy adopted by Council prior to the 2016 General Elections.



During this extended election period Councillors:

- Will continue to fulfil their duties
- Will continue to engage, and communicate with, the community in their Councillor role
- Must comply with the Act and Councillor Code of Conduct, and

- 
- Must not use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy

## **5.2 Inappropriate Decisions**

Section 69(2) of the Act requires that this Policy must prohibit any Council decision during the election period for a general election that—

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

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular Major Policy Decision, the Council will, by resolution, request an exemption from the Minister for Local Government, in accordance with section 177 of the Act.

It shall be the ultimate responsibility of the Chief Executive Officer to determine if a matter is a major policy decision. Where possible, the Chief Executive Officer will ensure that matters are scheduled for Council to ensure that major policy decisions are resolved prior to the commencement of the Election Period or scheduled for determination by the incoming Council.

Council will avoid making decisions that would affect voting at an election or decisions that may unreasonably bind an incoming Council and could be deferred until after the election. These are defined in the Act as inappropriate decisions.

Examples of inappropriate decisions include:

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

Council will however, allow an exception to this principle where:

- A decision will be considered only if absolutely necessary for Council operational purposes or pursuant to a statutory requirement.

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The only items to be considered at an Ordinary Council or Delegated Committee Meeting held during the election period, will be of an administrative nature. For the avoidance of doubt any report considered at an Ordinary Council or Delegated Committee Meeting held during the election period will be subject of certification (i.e. a Caretaker Statement) by the Chief Executive Officer in accordance with 5.3 below.

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

### **Considerations for Officers with Delegated Authority**

Before making decisions under delegated authority during the election period, officers should consider the following:

- Whether the decision is 'significant'
- The urgency of the issue (that is, can it wait until after the election?)
- The possibility of financial repercussions if it is deferred
- Whether the decision is likely to be controversial
- The best interests of Council.

Officers requiring assistance in determining whether a decision is likely to be inappropriate should seek advice from the Manager Governance in the first instance.

### **5.3 Caretaker Statement**

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

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

- The recommended decision is not an Inappropriate Decision, as defined in section 69(2) of the *Local Government 2020*, or an Inappropriate Decision within the meaning of the Election Period Policy.
- The recommended decision is an Inappropriate Decision within the meaning of the Election Period Policy, but the following negative consequences of a failure to make a decision on this matter outweigh the consequences of binding an incoming Council. [*Insert description of negative consequences of failure to make decision*].
- The recommended decision is a Major Policy Decision, as defined in section 69(2) of the *Local Government 2020*, but an extraordinary circumstances exemption was granted by the Minister for Local Government on [insert date].

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

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

#### **5.4 Candidacy**

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

#### **5.5 State and Federal Government Elections**

Councillors will ensure there is a demonstrable distinction between their obligations to Council and their personal interests as a candidate, or member of a political party, in an election period prior to a state or federal election.

In accordance with the adopted Councillor Guidelines for State and Federal Elections 2018 a Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as a candidate in a state or federal election, is a 'Prospective Candidate' and will provide written advice to the Chief Executive Officer, as soon as practicable, who will then advise all Councillors.

Councillors must comply with the provisions of the adopted Councillor Guidelines for State and Federal Elections 2018

#### **5.6 Council Publications**

Public resources, including Council Publications, must not be used in a way that would influence the way people vote in elections.

##### ***Electoral matter***

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

The following definitions from the Act are noted:

Section 3(1)     '**electoral material**' means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include an advertisement in a newspaper that is only announcing the holding of a meeting; '**publish**' means publish by any means including by publication on the Internet;

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Section 3(4) 'electoral matter' means matter, which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election.

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

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

The Chief Executive Officer (or delegate) must certify that any Council publication does not include 'electoral matter' before it can be issued.

For the purpose of this Policy, 'publications' include hard copy and electronic advertisements, social media posts, promotional media releases, fliers, posters, newsletters/updates, booklets, surveys, invitations and group mailouts/emails.

Any publications to be issued during the election period are to be forwarded to the relevant General Manager for approval, and then sent to the Council Business / Governance Unit for vetting for electoral matter. Once vetted, the publication will then be submitted to the Chief Executive Officer (or delegate) for certification. Appendix 1 contains the certification memorandum required for a publication during the election period.

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

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

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

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

### ***Annual Report***

It is a requirement of the Act (s 100) that the Mayor must report on the implementation of the Council Plan by presenting the annual report at a Council meeting open to the public.

In the year of a general election the Council meeting must be held on a day not later than the day before election day.

As this is a statutory requirement, it does not require certification by the Chief Executive Officer.

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## 5.7 Council Resources

It is a requirement of the Act (s 304(1)) that a Councillor or member of Council staff must not use Council resources in a way that—

- (a) is intended to; or
- (b) is likely to—

affect the result of an election under this Act.

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

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

- Council resources, including offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business during the Caretaker Period, and will not be used for the personal advantage of any Councillor or candidate in connection with any election. This does not apply to the provision of space for the Returning Officer.
- No new publications or pamphlets, including Darebin Community News will be published by Council during the election period.
- Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operations of the Council and such speeches will not be circulated or available for publication.
- No Council logos, letterheads, business cards, photos or other City of Darebin Council branding will be used for, or linked in any way, to a candidate's election campaign.
- Candidates will not be provided access to databases, contact lists, property counts, email addresses or any other information that would assist in mailing or other distribution of election material
- It is recommended that staff who are either following Councillors / candidates Facebook pages or who are friends with them unfriend the Councillor / candidate during this period.
- There will be no Ward or Councillor ' Meet and Greet ' meetings held.
- The Executive Officer to the Mayor and Councillors or any other Council staff member will not be asked to undertake any tasks connected directly or indirectly with electioneering.

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- Reimbursements of Councillors' out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
  - Where Councillors have Council funded equipment, including laptops, tablets, printers and mobile phones, these are not to be used for election purposes or in a manner that could be perceived as supporting or being connected with a candidate's election campaign.

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

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

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

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

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

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

### ***Photographs and Images***

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

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

## **5.8 Election Signage on Council and Electioneering Practices**

In order to ensure Council resources including buildings and land are not used to support any electioneering activity Council has adopted an 'Electoral Advertising Signage and Electioneering Policy'. This policy provides clear direction on

- a) The placement of electoral advertising signs on any Council land, municipal building or road; and
- b) The requirements for candidates or their supporters electioneering in public places.

A copy of the policy will be provided to all candidates and is available of Councils website.



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## 5.9 Public Consultation and Council Events

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

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

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

Therefore:

- No formal public consultation like previously specified in section 223 of the 1989 Act will be conducted during this period.
- Consultation for the purpose of planning permit applications and operational issues such as canvassing residents' views on small-scale traffic treatments, installation of single trees and the like will be allowed as they are operational in nature and are unlikely to impact the conduct of the election.
- Consultation on larger projects and initiatives, strategies or plans will not occur during the election period.
- Civic Events will cease during this time.
- No election material or active campaigning is to be conducted at Council sponsored festivals.

Councillors may attend external events as a representative of Council however must not to use the opportunity to promote their election campaign.

## 5.10 Equitable Access to Council Information

The Council recognises that all election candidates have a right to information from the Council administration. However, it is important that sitting Councillors continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns, and transparency will be observed and practised in the provision of all information and advice during the election period.

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

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

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

All requests for information are to be directed to the Manager Governance

### **5.11 Publicity**

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

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

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

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### ***Council Websites and Social Media***

Councillors may use the title Councillor in their election material, as they

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

- The Agenda and Minutes for any Council or Special Committee meetings
- The Annual Report
- Key service disruption information

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

#### **5.12 Assistance to Candidates**

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

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

Any assistance and advice to be provided to Candidates as part of the conduct of the Council Election will be provided equally to all candidates. The types of assistance that are available will be documented and communicated to all candidates in advance.

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

#### **5.13 Conduct of Council Meetings**

Public Question Time and Submissions will be suspended at all Council meetings during the election period.

During the election period, Councillors will limit their discussion during debate to the topic under consideration and will avoid raising electoral matter where possible.

During the election period Notices of Motions will be suspended at all Council meetings.

Urgent Business will be listed however only admitted in accordance with Councils Governance Local Law. \

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## **6 Miscellaneous**

During the Pre-election period or the Election period, the Chief Executive officer may, at her or his absolute discretion, introduce additional provisions to this policy where she or he believes they are necessary to support the achievement of its stated policy objectives.

Any changes made by the Chief Executive officer will be reflected in an update to this policy and published on Councils website and sent to all Councillors and candidates.

## **7 Monitoring, Evaluation and Review**

The requirements of this policy will be monitored throughout the caretaker period to ensure compliance.

The policy will be further reviewed and updated not later than 12 months before the commencement of each subsequent general election period.

## **8 Associated Documents**

*Local Government Act 2020*

Summary of Election Period Restrictions – Appendix 1

Certification Memo – Appendix 2

## Appendix 1 - Summary of Election Period Restrictions

		<b>Pre-election Period</b> 57 days before election	<b>Election Period</b> 32 days before election
4	Council staff standing as a candidate	No restriction	Must take leave and return all Council equipment and information
4	Committee member standing as a candidate	No restriction	Must lodge apologies for meetings and return all Council equipment and information
5(7)	Council resources used in conjunction with an election campaign	Not permitted	Not permitted
5(7)	Reimbursement of out of pocket expenses to Councillors	Cannot include expenses that could be perceived as electoral expenses	Cannot include expenses that could be perceived as electoral expenses
5(7)	Use of Council logo, branding of phone number in campaign material	Not permitted	Not permitted
5(7)	Officer assistance in preparing campaign material	Not permitted	Not permitted
5(7)	Officer provision of databases and contact lists	Not permitted	Not permitted
5(10)	Maintenance of an Information Request Register	Not required	Required
5(9)	Routine community consultation	Permitted	Permitted
5(9)	Significant community consultation	Permitted	Not permitted
5(6)	Printing, publishing or distributing a handbill, pamphlet or notice containing electoral matter	Permitted	Not permitted
5(6)-	Printing, publishing or distributing a handbill, pamphlet or notice <u>not</u> containing electoral matter	Permitted	Permitted following certification by the Chief Executive
5(7)	Publication of the Darebin News or similar publication	Permitted, subject to restrictions	Not permitted
5(11)	Councillor details on Council's website	Restricted to names, contact details and committee or other appointments	Restricted to names, contact details and committee or other appointments

		<b>Pre-election Period</b>	<b>Election Period</b>
5(11)	Employee of Council or subsidiary organisation making a public statement that could be construed as influencing the election	Not permitted, apart from clarifications made by the Chief Executive	Not permitted, apart from clarifications made by the Chief Executive
5(11)	Publicity campaigns for Council services or functions	Should be avoided where possible, and otherwise approved by the Chief Executive	Should be avoided where possible, and otherwise approved by the Chief Executive.
5(11)	Councillor requests for media assistance	Must be approved by the Chief Executive or delegate but cannot relate to election campaigns or promote individual Councillors	Must be approved by the Chief Executive or delegate but cannot relate to election campaigns or promote individual Councillors
5(2)	Council making Major Policy Decisions	Permitted	Not permitted, except in accordance with the Act
5(2)	Council making Significant Decisions (defined in Act as inappropriate decisions)	Permitted	To be avoided, except where it is urgent and cannot be deferred
5(13)	Public Question Time / Submissions at Council Meetings	Continues as normal	Suspended
5(13)	Discussion of matters and raising of Urgent Business	Continues as normal	Comments by Councillors not to include Electoral Matter. Urgent Business permitted
5(9) 5(11)	Councillor attendance at meetings, events and functions	Permitted	Permitted
5(9)	Speeches by Councillors at Council events	Permitted	Limited to a short welcome, with no reference to the election.
5(9)	Annual Mayoral fundraising event (or similar)	Not permitted	Not permitted
5(9)	Attendance by Councillors at external events as representatives of Council	Permitted, but Councillors not to use the opportunity to promote their election campaign.	Permitted, but Councillors not to use the opportunity to promote their election campaign.
5(12)	Enquiries to Council from candidates	Shall be referred to the Returning Officer	Shall be referred to the Returning Officer
6	Introduction of additional provisions by the Chief Executive	Permitted	Permitted

# 2020 Council Elections



## REQUEST FOR CERTIFICATION OF PUBLICATION DURING THE ELECTION PERIOD

1. Author to Complete	
Document Description (attach document):	
Intended Distribution Channel:	
<p>I declare that the material contained in the attached document has been checked by me and to the best of my knowledge, it does not contain any electoral matter.</p>	
Name & Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>
2. General Manager to Complete	
<p>I have reviewed the material contained in the attached document and can advise that to the best of my knowledge, it does not contain any electoral matter.</p>	
Name & Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>
<p><i>Once signed, return to Coordinator Governance, Council Business &amp; Civic Services for vetting.</i></p>	
3. Chief Executive Officer to complete	
<p>In accordance with Chapter 12 of the Governance Rules adopted by Council on _____ 2020, I certify that the attached advertisement, handbill, pamphlet or notice may be printed, published or distributed during the election period on behalf of the City of Darebin.</p>	
	<input type="text" value="Sue Wilkinson, Chief Executive Officer"/>
Signature	<input type="text"/>
Date	<input type="text"/>