Governance Rules

Banyule
City Council

Governance Rules

Election Period Policy incorporated into the Rules

Adopted by Council ~~17 August 2020~~

Document Version History

Version	Date	Author	Comments
1	17 August 2022	Manager Corporate Governance and Communications	Final and adopted by Council
2	5 September 2022	Manager Corporate Governance and Communications	Draft for community consultation
3	Scheduled for 14 November 2022	Manager Corporate Governance and Communications	

GOVERNANCE RULES

Introduction

1. Nature of Rules

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

2. Date of Commencement

These Governance Rules commence on ~~18 August 2020.~~ 14 November 2022.

3. Contents

These Governance Rules are divided into the following Chapters:

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

4. Definitions

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

Act	means the *Local Government Act 2020*.
Chief Executive Officer	includes an Acting Chief Executive Officer.
Community Asset Committee	means a Community Asset Committee established under section 65 of the Act.
Council	means **Banyule City Council**.
Councillor	means a person who is an elected member of the Council.
Council meeting	has the same meaning as in the *Act*.
Delegated Committee	means a Delegated Committee established under section 63 of the Act.
Mayor	means the Mayor of Council.
these Rules	means these Governance Rules.
Attendance	attend, attending and in attendance include attend, attending or in attendance by electronic means.

Chapter 1 – Governance Framework

1. Context

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

(a) the overarching governance principles specified in section 9(2) of the *Act*; and

(b) the following documents adopted or approved by *Council*:

- Governance Local Law No. 2
- Councillor Code of Conduct
- Staff Code of Conduct
- Council Expense Policy
- Councillor Gift Policy
- Councils Community Engagement Policy
- Councils Public Transparency Policy
- Councillor Staff Interaction Protocols
- Instruments of Delegation
- Relevant Instrument of Appointment to Authorised Officers

And other documents that gives rise to Council's decision making or a document that may be created after the adoption of these Governance Rules that relate to the strategic direction and decision-making framework of Council.

2. Council Meetings

Council meetings are held regularly to conduct the ongoing business of the Council and special Council meetings may be held from time to time.

It is important that the community is made aware of the times, dates and locations of Council and Delegated Committee meetings and the matters Council will consider. The timing of this notice should give the community adequate time to make arrangements to attend the meeting or view the proceedings via the livestream.

An agenda for each Council meeting must be provided to Councillors in advance so that they can prepare adequately for the Council meeting. The Agenda contains the order of business and the professional advice of the organisation, that includes an officer recommendation for Council to consider.

The agenda is made available to the public via Council's website and as requested from Banyule Customer Service Centres.

3. Decision Making

(a) In any matter in which a decision must be made by Council (including persons acting with the delegated authority of Council), Council must consider the matter and make a decision:

i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and

ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations

(b) Council must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of Council is entitled to communicate their views and have their interests considered).

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

i) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;

ii) if a report to be considered at a Council meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;

iii) if a report to be considered at a Delegated Committee meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and

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

3. Statement of Commitment to good governance and governance principles (s 9 of *the Local Government Act 2020)*

(a) The Banyule City Council seeks to apply the governance principles as enshrined in s 9 of the Local Government Act 2020 in that:

v) Council decisions are to be made and actions are taken in accordance with the relevant law;

vi) priority is to be given to achieving the best outcomes for the municipal community, including future generations;

vii) the economic, social, and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;

viii) the municipal community is to be engaged in strategic planning and strategic decision making;

ix) innovation and continuous improvement is to be pursued;

x) collaboration with other councils and Government statutory bodies is to be sought;

xi) the ongoing financial viability of the Council is to be ensured;

xii) regional, state and national plans and policies are to be considered in strategic planning and decision making;

xiii) the transparency of Council decisions, actions and information is to be ensured.

(b) To successfully implement the overarching governance principles, the Council must take into account the following:

xiv) community engagement

xv) public transparency

xvi) strategic planning

xvii) financial mangement; and

xviii) service performance

Chapter 2 – Meeting Procedure for Council Meetings

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Part A - Introduction

1. Title

This Chapter will be known as the "Meeting Procedures ~~Code~~Chapter".

2. Purpose of this Chapter

The purpose of this Chapter is to:

- provide for the election of the Mayor and any Deputy Mayor;
- provide for the appointment of any Acting Mayor; and
- provide for the procedures governing the conduct of Council meetings.

3. Definitions and Notes

(1) The following words have the meaning indicated:

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

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

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

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

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

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

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

"*attend, attending, and in attendance*" include attending, or in attendance by electronic or in person means.

"*Chief Executive Officer*" includes Acting Chief Executive Officer

"Council' means Banyule City Council

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

"general business" means business of a minor or routine nature

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

Part B – Election of Mayor

Introduction

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

The role and functions of the Mayor are ~~provided~~ set out in section 19 of~~in~~ the Act. Amongst many other duties, the Mayor is ~~The holder of this significant office is the~~ the Chairperson ~~at~~ of Council meetings, is the leader of the Councillors and is responsible for promoting behaviours amongst Councillors that met the standards of conduct set out in the *Local Government Act 2020* and the *Local Government (Governance and Integrity) Regulations 2020.*

The Mayor, is the official ~~acts as the~~ ~~principal~~ spokesperson for Council and carries out civic and ceremonial duties.

4. Election of the Mayor

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

Notes LGA Section 25 - Election of Mayor

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

Section 25 - Election of Mayor

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.

…

(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.

(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

Role of the Deputy Mayor

A Council may establish an office of Deputy Mayor and the election would take place at the meeting at which the Mayor is elected.

If the Council has established an office of Deputy Mayor, the provisions of this Act relating to the office of Deputy Mayor apply.

The Deputy Mayor must perform the role of the Mayor and may exercise any of the powers of the Mayor if:

- The Mayor is unable for any reason to attend a Council Meeting or part of a Council Meeting;
- The Mayor is incapable of performing the duties of the office of Mayor for any reason including illness, or
- The Office of the Mayor is vacant.

The term of the Deputy Mayor is to be identical to the term of the Mayor as resolved by Council.

If the Council has not resolved to establish the position of Deputy Mayor, any provisions in these Rules relating to the Deputy Mayor have no effect.

~~**5.** *Role and Election of Deputy Mayor*~~

~~(1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.~~

~~(2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair.~~

~~(3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.~~

~~(4)~~(1) ~~If the *Council* has not resolved to establish the position of *Deputy Mayor*, any provisions in this these Governance Rules relating to the *Deputy Mayor* have no effect.~~

~~6.~~5. Method of Voting

The election of the Mayor must be carried out by a show of hands in accordance with division 9 ~~or following a resolution made in accordance with Division 9, an electronic method that enables those observing (in attendance and those watching a livestream broadcast) to see who a Councillor has voted for at the time the vote is taken.~~or such other visual or audible means as the Chief Executive determines.

~~7.~~6. Determining the Election of Mayor / Deputy Mayor

(1) The Chief Executive Officer ~~will~~ must open the meeting ~~preside during the~~of the meeting scheduled for the election of the Mayor and invite nominations for the Office of the Mayor

(2) Any nomination for the office of the Mayor must be:

a. seconded by another Councillor; and

~~(1)~~b. accepted by the nominee and~~.~~

~~The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.~~

(3) Once nominations for the office of the Mayor have been received, the Chief Executive Officer shall:

a. confirm that no further nominations shall be accepted. At that point, nominees become candidates for election and their candidature cannot be withdrawn.

~~(2)~~ b. The following provisions will govern the election of the Mayor.

Single nomination

(4) if there is only one nomination, the candidate nominated must be elected to be duly elected.

Multiple Nominations

(5) if there is more than one nomination, the Councillors in attendance at the meeting must vote for one of the candidates.

(6) in the event of a candidate receiving the votes of an absolute majority of Councillors, that candidate is declared to have been elected.

Three or more nominations and no Candidate Obtaining Absolute Majority on First Vote

(7) (7) in the event that:

a. there are three or more candidates

b. no candidate receives the votes of an absolute majority of Councillors; and

c. it is not resolved to conduct a new election at a late date and time,

the candidate with the fewest number of votes must be declared to be a defeated candidate. the Councillor in attendance at the meeting ill then vote for one of the remaining candidates.

(8) if one of the remaining candidates receives the votes of an absolutely majority of Councillors, that candidate is duly election. If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a late day and time, the process of declaring the candidates with fewest number of votes a defeated candidate and voting for the remaining candidate must be repeated until one of the candidates receives the votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected.

(9) for the purposes of sub rules 7 and 8, if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.

(10) if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:

a. each candidate who has an equal number of votes with another candidate or candidates will draw one lot;

b. the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors surnames are identical, the order will be determined by the alphabetical order of the Councillors first names;

c. as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates until one of

those candidates receives the votes of an absolute majority of Councillors.

Two nominations or two remaining candidates and no candidate obtaining an absolute majority on first vote

(11) In the event of two (2) candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of Councillors, the Councillors in attendance at the meeting will consider whether to resolve to conduct a new election at a later date and time.

(12) If:

a. It is resolved to conduct a new election at a later date and time a new election will take place on the date and at the time resolved upon. In the event the provisions of this Rule will continue to govern the election of the Mayor, and ultimately any candidate whose nomination is the sole nomination or any candidate who receives the votes of an absolute majority of Councillors will be declared duly elected; and

b. it is not resolved to conduct a new election at a later date and time Councillors must continue to vote until one of the candidates receives the votes of an absolute majority of Councillors, at which point that candidate will be declared duly elected. if, after two or more votes are taken neither candidates receive the votes of an absolute majority of Councillors, the provisions of sub rule 6.11 and this sub rule 6.12 must again be followed.

~~(3) Where in an election for the Mayor:~~

~~(a) only one candidate has been nominated, that candidate must be declared elected;~~

~~(b) two candidates have been nominated, a vote must be taken and the candidate who receives the number of votes equal to or greater than half the Councillors of the Council must be declared elected;~~

~~(c) two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council, a second vote will be conducted.~~

~~(d) where, after a second vote, where two candidates have been nominated and no candidate receives the number of votes equal to half the Councillors of the Council the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;~~

~~(e) more than two candidates have been nominated and no candidate receives the number of votes equal to or greater than half the Councillors of the Council:~~

~~I. the candidate with the fewest number of votes cast must be eliminated;~~

~~II. the names of the remaining candidates must be put to the vote again; and~~

~~III. the procedure in (i) and (ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-clause (b) of this Clause.~~

~~IV. in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes);~~

~~(f) The Chief Executive Officer will conduct a vote for one candidate to be defeated.~~

~~(g) If Council resolves to have the office of *Deputy Mayor*, the provisions of sub- rules (2) and (3) apply to the election of the *Deputy Mayor* with all necessary modifications and adaptations.~~

~~8.~~7. Ceremonial Mayoral Speech

(1) Upon being elected, the Mayor may make a ceremonial speech.

(2) The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

~~9.~~8. Appointment of Acting Mayor

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

(1) resolving that a specified Councillor be so appointed; or

(2) following the procedure set out in Rules 6 and 7 (inclusive) of this Chapter,

at its discretion.

9. Election of the Deputy Mayor and Chairs of Delegated Committees

Any election for:

(1) any office of the Deputy Mayor; or

(2) Chair of a Delegated Committee

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

(3) Chief Executive Officer is reference to the Mayor; and

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

10. Appointment of Acting Mayor

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

(1) resolving that a specified Councillor be so appointed; or

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

Part C – Meetings Procedure

Introduction

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

In accordance with Section 61 and 63 of the Act, the Mayor must take the Chair at all Council meetings at which the Mayor is present. 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 Chairperson of the meeting.

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 Delegated Committees and advisory committees have the opportunity to be heard, matters are adequately discussed, meeting procedures are followed appropriately, 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.However, from time to time, the Mayor or Chairperson may wish to participate in the debate by moving and seconding a motion, in which case the Mayor needs to highlight that they are speaking on behalf of their role as a Councillor and not the Mayor (if they are the Mayor of the day).

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

Additionally, each member of the meeting has an obligation to participate in good decision-making. Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.

Division 1 -Notices of Meetings and Delivery of Agendas

~~10.~~11. Dates and times of meetings fixed by Council

Subject to Rule 13~~8~~, Council must from time to time fix the date, time and place of all Council meetings.

~~11.~~12. Council may alter Meeting dates

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

~~12.~~13. ~~UnscheduledU~~Special meetings

(1) Council may by resolution call an ~~unscheduled~~special meeting of the Council.

(2) The Mayor, or at least three (3) Councillors may by written notice call a~~n unscheduled~~ special Meeting of the Council.

(3) The Chief Executive Officer, following consultation with the Mayor, may call a special ~~n unscheduled~~ meeting.

(4) A written notice to call a ~~n unscheduled Meeting~~special Meeting must:

(a) specify the date and time of the special Council meeting

~~(a)~~(b) s~~S~~pecify the business to be transacted;

~~(b)~~(c) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with clause 14~~9~~ below.

~~13.~~14. Notice of Meeting

1~~4~~3.1 Council Meetings

(1) A notice of a Meeting, that is not a special ~~unscheduled~~ meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council meeting~~s~~, at least 5 business days before the meeting. A period of less than five (5) business days may be justified if exceptional circumstances exist.

(2) An agenda for each Council Meeting, that is not a~~n unscheduled meeting~~ special meeting, will be made available on Council's website no less than 36 hours before the Council meeting.

(3) A schedule of Council Meetings must be prepared and published that ensures it is available to a broad section of the community, including on Council's website at least once each year and with such greater frequency as the Chief Executive Officer determines. The schedule of Council meetings must also be available from Council's Customer Service Centres at request.

~~(3)~~(4) Not withstanding sub-Rule 14.1 a notice of a meeting need not be delivered or sent to a any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of their absence.

1~~4~~3.2 ~~Unscheduled~~/ Special Meetings

~~(4)~~(5) Notice of a~~n unscheduled~~/ special meeting must be published on Council's website as soon as practicable after the time and date of the meeting has been determined.

~~(5)~~(6) An agenda for a~~n unscheduled~~ /special council meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.

~~(6)~~(7) An agenda for a~~n~~ unscheduled /~~Council~~special Council meeting will be made available on the Council website no less than 24 hours before the Council meeting.

~~14.~~15. Adjourned Meetings

(1) Council may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of Council staff adjourn a meeting in session to another place.

(2) The Chief Executive Officer must give written notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.

(3) If it is impracticable for the notice given under clause 1~~5~~4(2) to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

~~15.~~16. Cancellation or postponement of a Meeting

(1) In the case of an emergency, the Chief Executive Officer or Delegate or, in the absence of both, a Senior Officer, may postpone a Council meeting, provided every reasonable attempt is made to notify every Councillor of the postponement.

(2) The Chief Executive Officer, Delegate or Senior Officer must submit a full written report of the circumstances requiring ~~his or her~~the action taken ~~action~~ in respect of the emergency postponement at the next practicable O~~o~~rdinary Council meeting.

Division 2 - Quorums

~~16.~~17. Inability to obtain a quorum

If a quorum is not present within 30 minutes of the time appointed for the commencement of a Council meeting:

(1) the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting; and

(2) the Chief Executive Officer must give all Councillors written notice of the meeting convened by the Mayor.

~~17.~~18. Inability to maintain a Quorum

(1) If a quorum ceases to be present at any time during a Council meeting then no business can be legally transacted until a quorum is again formed. The meeting may be adjourned.

(2) 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 Council meeting.

(3) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:

(a) Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
(b) Determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter at a meeting for which quorum can be maintained.

(4) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:

(a) By the Chief Executive Officer; or
(b) By a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.

(5) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.

Quorum Calculation	
Number of Councillors/ Committee Members	*Number required for Quorum*
9	*5*
8	*5*

7	*4*

Division 3 - Business of Meetings

~~18.~~19. Agenda and the order of business

(1) The agenda for and the order of business for a Council meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government.

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

(3) The Chief Executive Officer may prepare a written supplementary report on any item of business that has arisen since the preparation of the agenda. Councillors must receive a copy of any supplementary report at least 24 hours before the time fixed for holding the Meeting.

~~19.~~20. Urgent Business

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

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

(b) deferring the item until the next meeting will mean a decision on the item will not have any effect on the matter; or

(c) involves a matter of urgent community concern; or

(d) cannot be safely or conveniently deferred until the next ordinary meeting.

(e) the item involves a matter of urgency as determined by the Chief Executive Officer; and

(f) it cannot be addressed through an operational service request process.

(g) Provided the matter does not:

- substantially affect the levels of Council service;
- commit Council to significant expenditure not included in the adopted budget;
- establish or amend Council policy; or
- commit Council to any contractual arrangement.

(2) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 3 pm on the day of the Meeting.

(3) The Chief Executive Officer will advise the Mayor of any matter that they determine appropriate for Council to consider admitting as urgent business.

(4) Prior to the consideration of the urgent business item, Council must first determine to accept the urgent business item and will require a mover and seconder and put the motion to the vote of the Council. The mover shall explain why the item has been classified as urgent business without speaking to it and then move it without speaking to it.

~~(4)~~

21. General Business item

(1) When dealing with General Business on the agenda, a Councillor may make a statement on an issue of concern or of interest.

(2) Only business of a minor or routine nature should be admitted as general business and there shall be no debate or resolution arising out of that statement.

(3) A Councillor may not speak longer than 3 minutes on an item of general business.

An example of a general business item could be an update from a Councillor(s) on the following items:

- *A recent event that they attended*
- *A recent Banyule achievement; either relating to employee, Councillor or the organisation*
- *A condolence or celebratory item*
- *Relevant tributes and recognition*
- *A note of thanks*

A general business item does not require a Councillor to vote on the matter, as it does not require a decision.

~~D~~ivision 4 - Motions and Debate

~~20.~~22. Notice of Motion

(1) A Councillor can submit to the Chief Executive Officer a notice of motion for inclusion in the agenda for a meeting.

(2) A notice of motion must be in writing signed by the Councillor (including by electronic means) and be lodged with the Chief Executive Officer at least fourteen (14) clear days before the Council meeting at which it is intended to be considered to ensure its inclusion in the Agenda.

(3) The Chief Executive Officer must then inform the Councillor about the legal and cost implications of any proposed notice of motion. The Chief Executive Officer may suggest revised wording to the draft notice of motion to facilitate compliance with the requirements for a notice of motion under these Rules.

(4) A notice of motion must relate to the objectives, role and functions or Council as outlined in the Act.

(5) A notice of motion must call for a Council report if the notice of motion:

(a) affects the levels of Council service;
(b) if it is inconsistent with the strategic objectives of the Council as outlined in the Council Plan
(c) commits Council to expenditure not included in the adopted Council Budget;
(d) establishes, amends or extends Council policy;
(e) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
(f) commits Council to any contractual arrangement; or
(g) concerns any litigation in respect of which Council is a party.

(6) The Chief Executive Officer must reject any notice of motion which:
(1) is too vague;
(2) is identical or substantially similar to a notice of motion or other motion that has been considered by Council in the preceding six (6) months;
(3) is defamatory;
(4) may be prejudicial to any person or Council;
(5) is objectionable in language or nature;
(6) is outside the powers of Council; or
(7) is submitted during Election Period.

(7) The Chief Executive Officer may reject any notice of motion:
(1) relates to a matter that can be addressed through the operational service request process; or
(2) relates to a matter that has been previously resolved by Council or is acted upon.

(8) If rejecting a notice of motion, the Chief Executive Officer must:
(a) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
(b) if the notice of motion cannot be amended to the satisfaction of the Chief Executive Officer, notify, in writing, the Councillor who lodged it of the rejection and the reasons for the rejection.

(9) The Chief Executive Officer may designate a notice of motion to be confidential in accordance with the relevant grounds as contained in the Act, in which case the notice of motion will be considered in a session of a Council meeting that is closed to members of the public.

(10) The full text of any notice of motion accepted by the Chief Executive Officer must be included in the agenda and outline the policy, financial and resourcing implications if the notice of motion is passed.

(11) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the notice of motion being published in the agenda for the relevant Council meeting.

(12) The motion moved must not be substantially different to the motion published in the agenda, however, may be amended by resolution of the Council.

(13) If a Councillor who has lodged a Notice of motion is absent from the meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the motion.

(14) The Chair, having lodged a notice of motion to move the notice of motion and:
- the Deputy Mayor will assume the Chair; or
- if the Deputy Mayor is not in attendance or there is no Deputy Mayor, Council must appoint a temporary Chair for the consideration of that item.

(15) Unless Council resolves to re-list at a future meeting a notice of motion which has been lost, a similar motion must not be put before Council for at least three (3) months from the date it was last lost.

~~21.~~23. Chair's Duty

The Chair must not accept any motion which:

(1) is defamatory;
(2) is objectionable in language or nature;
(3) is vague or unclear in intention;
(4) is outside the powers of Council;
(5) is not irrelevant to the item of business on the agenda and has not been admitted as urgent; or ~~,~~
(6) purports to be an amendment but is not

~~22.~~24. Introducing a Report

(1) Before a written report is considered by Council and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:

(a) its background; or

(b) the reasons for any recommendation which appears.

(2) Unless Council resolves otherwise, a member of Council staff need not read any written report to Council in full.

~~23.~~25. Introducing a Motion or an Amendment

The procedure for moving any motion is:

(1) the mover must outline the motion without speaking in support of it;

(2) the motion must be seconded by a Councillor other than the mover;

(3) if a motion is not seconded, the motion lapses for want of a seconder;

(4) if there is a seconder, then the Chairperson must call on the mover to speak to the motion;

(5) after the mover has spoken to the motion, the seconder may also speak to the ~~M~~motion;

(6) 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, after waiting until all Councillors wishing to speak to the motion have spoken; and

(7) if no Councillor wishes to speak against the motion, then the Chairperson may put the motion or call on any other ~~Member~~ Councillor to speak.

Notes

A Councillor may move any motion related to an item included in the agenda. In the interest 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. Motions are required to be submitted in writing so they can be displayed ~~to the~~ at the meeting.

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

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. This usually means it should include specifics about the action to be taken, the timing of the action to be taken, the details of any other organisation and any references to specific attachments that should be read in conjunction with the meeting minutes from the associated agenda.

~~24.~~26. Right of Reply

(3) The mover of a motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.

(4) No new matters may be raised in the right of reply.

(5) If no Councillor has spoken against a motion, there will be no right of reply.

(6) After the right of reply has been exercised, the motion must immediately be put to the vote without any further discussion or debate.

~~25.~~27. Moving an Amendment

(7) A motion, which has been moved and seconded, may be amended by leaving out, inserting or adding words, which must be relevant to the subject of the motion.

(8) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original motion.

(9) 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.

(10) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:

(a) the amendment must be moved and seconded;
(b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the motion, but debate must be confined to the terms of the amendment;
(c) any number of amendments may be proposed to a motion, but only one amendment may be accepted by the Chairperson at any one time. 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;
(d) if the amendment is carried, the motion as amended then becomes the motion before the meeting (known as the 'substantive Mmotion'); and
(e) the mover of an amendment does not have right of reply.

If a proposed amendment is ruled to be the negative of, 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 Chair is lost – see Foreshadowing Motions.

~~26.~~28. Foreshadowing Motions

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

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

(13) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.

(14) The minutes of the meeting will not include foreshadowed motions unless the foreshadowed motion is subsequently formally moved as a motion.

(15) The Chair is not obliged to accept foreshadowed motions.

~~27.~~29. Withdrawal of Motions

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

(2) If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

~~28.~~30. Separation of Motions

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

(2) The Chairperson may decide to put any motion to the vote in separate parts.

~~29.~~31. Motions moved in a block

The Chairperson may allow like motions to be moved, or request Councillors to move like items, in a block (*en bloc*), only if the motions note actions already taken and will not commit Council to further action, spending or changes to policy.

~~30.~~32. Motions in Writing

(1) All motions, except procedural motions, must be submitted in writing.

(2) Where motions are raised and considered during the meeting without having been put in writing in advance of the meeting, the Chairperson must seek the advice of the Chief Executive Officer regarding any legal, cost or other implications of the proposed motions.

(3) The Chairperson may adjourn a meeting while a motion is being written or may request Council to defer the matter until the Motion has been written, allowing the meeting to proceed uninterrupted.

~~31.~~33. Repeating Motion and/or Amendment

(16) Before any matter is put to the vote, a Councillor may require that the question, motion or amendment be read again.

(17) The Chairperson without being so requested may direct the Chief Executive Officer (or other person authorised by the Chief Executive Officer) to read the question, motion or amendment to the meeting before the vote is taken.

~~32.~~34. Debate must be relevant to the Motion

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

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

(20) A speaker to whom a direction has been given must comply with that direction.

~~33.~~35. Adequate and sufficient debate

(1) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.

(2) A motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.

(3) Once the views put are representative of the views of all Councillors or Members the debate would be regarded as sufficient.

~~34.~~36. Speaking Times

(1) Unless a motion for an extension of speaking time has been carried, the maximum speaking times are:

(a) the mover of a motion or amendment - ~~five~~ three (3) minutes;
(b) the mover of a Motion when exercising their~~his or her~~ right of reply - ~~two~~one (1) minutes; and
(c) any other speaker - ~~three~~ two (2) minutes.

(2) A motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.

(3) A motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.

(4) Only one extension of speaking time is permitted for each speaker.

(5) Any extension of speaking time must not be more than two (2) minutes.

~~35.~~37. Right to ask Questions

(1) A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.

(2) The Chair has the right to limit questions and direct that debate be commenced or resumed.

~~36.~~38. 36. Priority of address

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

Division 5 - Procedural Motions

~~37.~~39. Procedural Motions

(1) Unless otherwise prohibited, and subject to sub- rule (3), a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.

(2) Procedural motions require a seconder.

(3) The Chairperson may reject a procedural motion if they~~he or she~~ believe~~s~~ the motion on which it is proposed has not been adequately or sufficiently debated.

(4) Regardless of any other provision in this ~~Local Law,~~Governance Rules a procedural motion must be dealt with in accordance with the table ~~at~~ set out titled 'Procedural Motions Table'.

(5) A Procedural motion may not be moved or seconded by the Chairperson.

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

(7) Unless otherwise provided, a procedural motion must not be amended

~~PRO~~CEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion Not the Chair	(a) During the election of a *Chair*; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion Not the Chair	(a) During the election of a *Chair*; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the *Council* has been made for that meeting in accordance with section 85 of the *Act*; or (d)When the motion would have the effect of causing *Council* to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
The closure (debate)	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion Except the Chair	During nominations for *Chair*	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted
Laying a motion on the table (pausing debate)	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion Except the Chair	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
Take a motion from the table (resume debate on a matter)	'That the motion in relation to xx be taken from the table'	Any Councillor Except the Chair	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
Alter the order of business	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor Except the Chair	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the *Agenda*	No
Consideration of confidential matter(s) (Close the meeting to members of the public)	That, in accordance with section 66(2)(a) of the *Local Government Act 2020* the meeting be closed to members of the public for the consideration of item xx *is confidential as it relates to [insert reason]*	Any Councillor Except the Chair	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
Reopen the meeting	'That the meeting be reopened to members of the public'	Any Councillor Except the Chair		The Meeting is reopened to the public	The meeting remains closed to the public	No

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted
suspension of standing orders	That standing orders be suspended it's the one on the left	Any Councillor Except the Chair		The formalities of the meeting procedure are temporarily disposed. no motion can be accepted by the Chair or lawfully be dealt with until standing orders are resumed than the	the formalities of the meeting procedure remain in place	yes
resumption of standing orders	that standing orders be resumed	Any Councillor r Except the Chair	when standing orders have not been suspended	the formalities of the meeting have been reinstated.	the formalities of the meeting procedure remain temporarily disposed of no motion can be accepted by the Chair or lawfully be dealt with until standing orders are resumed	yes

Division 6 - Rescission Motions

~~38.~~40. Notice of Rescission

(1) A Councillor may propose a motion to amend or rescind a previous resolution of Council provided:

a) the resolution has not been acted upon; and

b) the notice of motion is in writing and signed by the Councillor (primary Councillor) and two other Councillors; and

c) the notice of motion is delivered to the Chief Executive Officer no later than 48 hours following the meeting of the Council at which the motion proposed to be rescinded or altered was adopted.

(2) A resolution will be deemed to have been acted upon if:

a) its contents have or substance has been formally communicated to a person whose interests are materially affected by it;

b) a statutory process has been commenced so as to vest enforceable rights in or obligations on Council or any other person.

(3) A notice of motion to rescind or alter previous resolution of Council:

a) is to be listed by the Chief Executive Officer for consideration at the next ordinary meeting of Council, unless a special ~~n Unscheduled~~ meeting of Council is called to consider the notice of motion prior to the next ordinary meeting of Council;

b) may be moved by any Councillor ~~present~~ in attendance at the meeting if the Primary Councillor is not present at the meeting;

c) shall be deemed to have been withdrawn if not moved at the meeting for which it is listed.

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

(1) has not been acted on; and

(2) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule ~~37~~40(1)(c~~-~~),

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

~~39.~~41. If Lost

If a motion for rescission is lost, a similar motion may not be put before Council for at least three (3) months from the date it was last lost, unless Council resolves that the notice of motion be re-listed at a future meeting.

~~40.~~42. If Not Moved

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

~~41.~~43. May be moved by any Councillor

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

~~42.~~44. When not Required

(1) Unless sub-Rule 4~~2~~1(2) applies, a motion for rescission is not required where Council wishes to change policy.

(2) The following standards apply if Council wishes to change policy:

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

(b) any intention to change a Council policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

Division 7 - Points of Order

Introduction

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, the process for raising and ruling on a point of order, and the procedure if there is dissent on the Chair's ruling are described in this section.

~~43.~~45. Chair to decide

(1) A Councillor raising a point of order must state:

(a) the point of order; and
(b) any section, Clause, paragraph or provision relevant to the point of order.

(2) The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which ~~he or she~~they consider ~~s~~ applicable to the point of order raised, without entering into any discussion or comment.

(3) The Chair may adjourn the Meeting to consider a point of order; otherwise ~~he or she~~they must rule on it as soon as it is raised.

(4) All other matters before Council are suspended until the point of order is decided.

~~44.~~46. Dissent From Chair's ruling

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

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

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

(3) The Deputy Mayor or temporary Chair must invite the mover to state the reasons for ~~his or her~~their dissent and the Chair may then reply.

(4) The Deputy Mayor or temporary Chair must put the motion in the following form:

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

(5) If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds.

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

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

(8) The Chairperson must then resume the Chair for the remainder of the Meeting.

~~45.~~ 47. Valid Points of Order

(1) A point of order may be raised in relation to:

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

~~46.~~ 48. Contradiction or opinion

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

Division 8 - Petitions and Joint Letters

~~47.~~49. Petitions and Joint Letters

(1) Every petition submitted to Council must:

(a) be in legible and in permanent writing;
(b) is clear and on each page the matter and action sought from council is stated
(c) not be derogatory, defamatory or objectionable in language or nature;
(d) not relate to matters outside the powers of Council; and
(e) include the names, addresses and original signatures of at least 10 people

(2) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.

(3) Any Councillor presenting a petition is responsible for ensuring that:

(a) he or she is familiar with the contents and purpose of the petition; and
(b) the petition is not derogatory, defamatory or objectionable in language or nature.

(4) Unless sub-clauses (5) or (6) apply, the only motions that may be considered by Council on any petition are:

(a) that the petition be received; and
(b) that the petition be referred to the relevant department for consideration and response; or
(c) that the petition be referred to the relevant department for a report to a future Council meeting.

(5) If a petition relates to an item listed on the agenda for the meeting at which it is submitted, the petition may be dealt with in conjunction with the item.

(6) If a petition relates to a 'statutory matter' which is the subject of a public submissions process in accordance with the relevant legislation the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).

(7) The Chief Executive Officer may determine that an electronic or online petition will be submitted to a Council meeting. An online or electronic petition may be submitted to a Council meeting.

(8) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.

(9) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading.

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Division 9 - Voting

Introduction

At the conclusion of debate on a matter before the meeting, the Chairperson must put the question, motion or amendment to the vote. Each Councillor is entitled to one vote and voting must be able to be seen by those participating in the meeting and those observing the meeting.

The vote is determined by a majority of the Councillors ~~present~~ in attendance at the meeting at the time the vote is taken voting in favour of the motion.

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

Sometimes a Councillor may want their ~~his or he~~r vote ~~is~~ to be recorded – this is provided for in this section, along with the procedure when a Councillor calls for a division on a vote which is when how each Councillor voted is recorded.

Provision is made for the introduction of an electronic voting system as long as Council has resolved to implement the system and all participants in the meeting and those observing a meeting are able to see which way Councillor has voted on a matter at the time the vote is taken.

~~48.~~50. How Motion determined

(1) To determine a motion at a meeting, the Chairperson must first call for those in favour of the motion and then those opposed to the motion and must then declare the result to the meeting.

(2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise the casting vote.

(3) The Chairperson may adjourn the meeting to consider how their casting vote will be cast.

~~(2)~~(4) The Chairperson may direct that a vote be recounted to satisfy themselves of the result.

~~49.~~51. Voting must be seen

(1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken.

(2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

~~50.~~52. When a division is permitted

(1) A division may be requested by any Councillor on any vote.

(2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.

(3) When a division is called for the Chairperson must:

(a) first ask each Councillor wishing to vote in favour of the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes;
(b) then ask each Councillor wishing to vote against the motion to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes;
(c) next, ask each Councillor abstaining from voting to indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the minutes; and
(d) finally, declare the result of the division.

(4) Where a division is requested after the original vote has been taken, the motion is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

~~51.~~53. No discussion once a vote has been declared

(1) Once a vote on a motion has been declared carried or lost by the Chairperson, no further discussion relating to the motion is allowed, unless the discussion:

(a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the minutes or calling for a division in accordance with Rule 49; or
(b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

Section 59 of the Act provides:
(5) A question before a Council meeting is to be determined as follows—

(a) each Councillor present at a Council meeting who is entitled to vote is entitled to one vote;
(b) voting at a meeting must not be in secret, but if the meeting is closed to the public, a Councillor is not required to divulge their vote to the public;
(c) the question is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour of the question;
(d) subject to subsection (6), if the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the chairperson has a second vote;
(e) for the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote is to be taken to have voted against the question.

The Chairperson does not have a casting vote in the election of Mayor or Deputy Mayor as these positions must be elected by an absolute majority of Councillors.

Division 10 - Minutes

Introduction

The minutes of a meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The minutes of a Council meeting must be submitted to the next appropriate Council meeting for confirmation.

~~52.~~54. Keeping of Minutes

(1) The Chief Executive Officer or Delegate is responsible for the keeping of minutes on behalf of Council. Those minutes must record:

(a) the date, place, time and nature of the Council meeting;
(b) the names of Councillors and whether they are ~~present~~attendance, an apology, on leave of absence, etc.;
(c) the titles of the members of Council staff present who are not part of the gallery;
(d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
(e) the arrivals and departures of Councillors in attendance~~,~~ during the course of the meeting (including any temporary departures or arrivals);
(f) every motion and amendment moved (including procedural motions),
(g) the outcome of every motion moved;
(h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
(i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any motion, noting that under s61(5) that a Councillor present at the meeting who does not vote is taken to have voted against the question;
(j) procedural motions;
(k) details of any failure to achieve or maintain a quorum;
(l) the time and reason for any adjournment of the meeting or suspension of standing orders;
(m) the time the Council meeting was opened and closed, including any part of the Council meeting that was closed to members of the public;
(n) any other matter, which the Chief Executive Officer or delegate thinks should be recorded to clarify the intention of the meeting or assist in the reading of the minutes.

~~53.~~55. Confirmation of Minutes

(1) The minutes as recorded by the Chief Executive Officer, or delegate, will be made available as the proposed minutes to:

(a) Councillors, within 3 business days;
(b) members of the public, by publishing them on Council's website, within 4 business days or where as reasonably practicable to publish to Councils websote
(c) of the Council meeting they relate to.

(2) No debate or discussion is permitted on the confirmation of minutes except as to their accuracy as a record of the proceedings of the Council meeting to which they relate;

(3) Once the minutes are confirmed in their original or amended form, the minutes must, if practicable, be signed by the Chairperson of the meeting at which they have been confirmed.

(4) the minutes must be held in accordance with the Public Records of Victoria standards.

~~54.~~56. Objection to confirmation of Minutes

(1) If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:

(a) state the item or items with which he or she is dissatisfied; and

(b) propose a motion clearly outlining the alternative wording to amend the minutes.

(2) If there is no seconder to the motion to the item or items, Council shall be deemed to have confirmed the item or items.

~~55.~~57. Deferral of confirmation of minutes

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

Division 11 - Public Participation

Introduction

Council Meetings are held for Council to make its decisions. Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community, and in particular circumstances.

At each Ordinary Meeting there is an opportunity for members of the public to ask questions of the Council or speak to an item on the Agenda, participation includes:

- requesting to speak
- talking about a public submission
- submitting a question to public question time
- presenting a petition.

Guidelines for these processes are available on Councils website.

Members of the community may also seek to inform individual Councillors of their views by contacting them directly in advance of a Council Meeting.

~~56.~~58. Public addressing the Meeting

(1) At an ordinary meeting of Council, time may be allocated in accordance with Council Policy to enable any person to address Council on a matter included on the Agenda.

(2) Sub-clause (1) does not apply during any period when Council has resolved to close the meeting in respect of a matter under section 66 of the Act.

(3) Comments should be confined to the matter under consideration and directed to the Chairperson.

(4) Council may decide to defer discussion to a later date and the views of the person addressing Council should be sought concerning that other date.

(5) Any member of the public addressing Council must extend due courtesy and respect to Council and the processes under which it operates and must take direction from the Chair whenever called on to do so.

(6) A member of the public ~~present~~ in attendance at a Council meeting must not disrupt the meeting.

(7) Silence must be preserved in the gallery at all times.

~~57.~~59. Chair may Remove

The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 5~~8~~5(5).

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

Division 12 - Disorderly Conduct

The conduct of Councillors ~~and Members~~ at meetings is governed by the Act, these Rules and the Councillor Code of Conduct.

~~58.~~60. Chairperson may adjourn disorderly Meeting

(1) The Chairperson may call a break in a meeting for either a short time, or to resume another day if:

(a) the behaviour at the Council table or in the gallery is significantly disrupting the meeting; or
(b) when a meeting has been in progress for longer than two (2) ~~-~~hours.

(2) The break referred to in sub-clause (1) is an adjournment.

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

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

(4) If the Chair is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, ~~he or she~~they may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rule 15(2) and (3) and (4) apply.

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

~~59.~~61. Removal from Chamber

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber or a member who is in attendance at the Council meeting whether electronic or in person any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 59.

Division 13 - Additional Duties of Chair

~~60.~~62. The Chair's Duties and Discretions

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

(1) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community; and
(2) must call to order any person who is disruptive or unruly during any meeting.

Division 14 - Suspension of Standing Orders

~~61.~~63. Suspension of Standing Orders

(1) To expedite the business of a meeting, Council may suspend standing orders.

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

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

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

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

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

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

"That standing orders be resumed."

Division 15 - Physical and Remote Attendance.

64. Mode of Attendance

(1) Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:

(c) wholly in person;
(d) wholly by electronic means; or
(e) partially in person and partially by electronic means

(2) The indication of the notice of meeting must be consistent with any Resolution of Council that has expressed preference for, or otherwise specified, when Council meetings are to be conducted:

(a) wholly in person;
(b) wholly by electronic means; or
(c) partially in persona and partially by electronic means

(3) The default mode of attendance for a scheduled or special meeting is wholly in person

(4) If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means

(5) Any request made under sub rule 64.4 must

(a) be in writing;
(b) be given to the Chief Executive Officer no later than 10am on the day of the relevant Council meeting; and

(c) specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.

(6) The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 64.5 and any other request received from a Councillor to attend electronic means is made known at the commencement of the relevant Council meeting.

(7) The Chief Executive Officer may approve and must not unreasonably refuse any request and will confirm in writing or verbally no later than 3pm on the day of the request for the Councillor(s) to attend by electronic means and must inform the rest of the Councillors of their decision.

(8) A Councillor who is attending a council meeting by electronic means is responsible for ensuring that they are able to access equipment and are in such an environment that facilitate participating in Council meetings.

(9) Without detracting from anything said in sub-Rule 64.8, a Councillor who is attending a meeting by electronic means must be able to:

(a) hearing the proceedings;
(b) see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;
(c) be seen by all Councillors, members of Council staff, members of Council staff and members of the public who are physically present at the Council meeting; and
(d) be heard when they speak

(10) if the conditions of sub-Rule 64.9 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:

(a) the council meeting will nonetheless proceed as long as a quorum is present;
(b) the relevant Councillor (or Councillors) will be treated as being absent from Council meeting or that part of the Council meeting

unless the Council meeting has been adjourned in accordance with these Rules.

(11) Nothing in this Rule 64 prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 64.9 even if the Council meeting has already commenced or has continued in their absence.

Division 16 - Miscellaneous

~~62.~~65. Meetings conducted Remotely

If:

(1) by law a meeting may be conducted electronically; and
(2) *Council* decides that a meeting is to be conducted electronically,

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

~~63.~~66. Procedure not provided in this Chapter

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

~~64.~~67. Criticism of members of Council staff

(1) The Chief Executive Officer may make a brief statement at a Council meeting in respect of any statement by a Councillor made at the Council meeting criticising him or her or any member of Council staff.

(2) A statement under sub-Rule 6~~7~~4(1) must be made by the *C*hief Executive Officer, through the Chair, as soon as it practicable after the Councillor who made the statement has resumed their ~~his or her~~ seat.

Chapter 3 – Meeting Procedure for Delegated Committees

Introduction

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 Committees, their meeting procedures need to be formal.

If Council establishes a Delegated Committee, these Rules will apply to the Delegated Committee meetings with any necessary modifications.

(1) 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.

(2) If Council establishes a Delegated Committee, Council may resolve that a provision of this governance rules do not apply to that Committee.

Chapter 4 – Meeting Procedure for Community Asset Committees

Introduction

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 may apply to any Community Asset Committee established by Council.

(2) Council may resolve, in establishing a Community Asset Committee which chapters of the Governance Rules 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 and any Terms of Reference adopted by Council.

Chapter 5 – Disclosure of Conflicts of Interest

Introduction

The Act 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.

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.

1 Obligations with regard to conflict of interest:

(1) Councillors, members of Delegated Committees, Community Asset Committees and those ~~-~~attending meetings auspice by Council ~~and Council~~ staff are required to:

- Avoid - all situations which may give rise to conflicts of interest;
- Identify - any conflicts of interest; and
- Disclose – or declare all conflicts of interest;

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.

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

3 Procedure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest being considered at a Council Meeting at which he or she:

(1) is ~~present~~ in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Council meeting immediately before the matter is considered; or

(2) intends to be ~~present~~ in attendance 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.

4 Disclosure of Conflict of Interest at a Delegated Committee Meeting

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

(1) ~~is present~~ are in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting immediately before the matter is considered; or

(2) intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:

(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 member of a Delegated Committee'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

(d) nature of that other person's interest in the matter,

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

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

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

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

(1) ~~is~~ are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee meeting immediately before the matter is considered; or

(2) intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the ~~C~~ommunity Asset Committee 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 member of 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

(d) nature of that other person's interest in the matter,

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

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

6 Procedure at other meetings organised, hosted or supported by Council

(1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.

(2) At the time indicated on the agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.

(3) If there is no a~~A~~genda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.

(4) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.

(5) The existence of a conflict of interest will be recorded in the minutes of the meeting.

(6) If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance Team for recording in the register of Conflicts of Interest.

(7) The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.

(8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

7 Council staff

(1) Must act in accordance with the ~~Employee~~ Staff 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 9 and the Employee Code of Conduct~~.~~

8 Procedure for disclosures of conflicts of interest by Council Staff

(1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.

(2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.

(3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:

(a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
(b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
(c) The staff member's Director determines that the conflict of interest has not influenced the advice provided; and
(d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.

9 Disclosure by members of Council Staff preparing reports for Meetings

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

(a) Council meeting;
(b) Delegated Committee meeting;
(c) Community Asset Committee meeting

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

(2) The Chief Executive Officer must ensure that the Report referred to in sub-Rule 9~~10~~(1) records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

(3) If the member of Council staff referred to in sub-Rule 9~~10~~(1) is the Chief Executive Officer:

(a) the written notice referred to in sub-Rule 9~~10~~(1) must be given to the Mayor; and
(b) the obligation imposed by sub-Rule 9~~10~~(2) may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

(2) If the member of Council staff referred to in sub-Rule 10(1) is the Chief Executive Officer the written notice must be given to the Mayor.

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

(2) If the member of Council staff referred to in sub-Rule 11(1) is the Chief Executive Officer the written notice must be given to the Mayor.

Chapter 6 – Miscellaneous

1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

(1) is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
(2) is attended by at least one member of Council staff; and
(3) is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting

the Chief Executive Officer must ensure that a summary of the matters discussed at the meeting are:

(a) tabled at the next convenient Council meeting; and
(b) recorded in the minutes of that Council meeting.

2. Confidential Information

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

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

(3) Nothing in Sub-Rule 2(2) will, without more, mean that the information designated by the Chief Executive Officer under sub-Rule 2(1) satisfies the definition of "confidential information" as contained in section 3(1) of the Act.

3. Joint council meetings

Introduction

Regional collaboration provides benefits 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 the Act.

(1) Council may resolve to participate in a Joint Council meeting to consider:

(a) Matters subject to discussion of the [insert existing alliance]
(b) Collaborative projects
(c) Collaborative procurement
(d) Emergency Response

(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 Banyule City Council[~~your council~~] is the lead Council on a matter to be brought for consideration at a Joint Council meeting, the Mayor will be nominated to Chair the Joint Council meeting

(4) A majority of Councillors will be appointed to represent Council at a Joint Council meeting.

(5) Consistent information will be provided to Councillors prior to any Joint Council meeting and every endeavour will be made by the Chief Executive Officer to facilitate a joint briefing.

(6) A joint briefing arranged in accordance with sub-rule (5) may be held electronically.

Section 62 Joint meetings of Councils - LGA

(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



Election Period Policy

1. Election Period Policy

~~**Council Plan Reference**~~

~~The Election Period Policy links to the following Objective contained within the Council Plan 2017-2021.~~

~~'Performance' is about managing our resources wisely, providing organisational support services, strategic planning and risk management, in particular key direction 5.4:~~

~~*'Provide good governance and be accountable.'*~~

~~**Application period**~~
~~Date policy/strategy approved: 7 October 2019~~
~~Date policy/strategy amended: 17 August 2020~~
~~Date policy/strategy due for review: 1 July 2023.~~

Legislative Context
An Election Period Policy must be included in a Council's Governance Rules as per section 69(1) of the Local Government Act 2020 and should prohibit certain decisions during an election period.

Sections 69 and 304 of the Act place certain limits on decisions being made, Council resources and publications.

~~Section 76D of the Local Government Act 1989, imposes serious penalties on a Councillor who misuses his or her position for private benefit, identified improper use of public resources as a misuse of position.~~

Victorian Charter of Human Rights and Responsibilities Act
In developing this procedure, the subject matter has been considered to determine if it raises any human rights issues. In particular, whether the scope of any human right established under the Victorian Charter of Human Rights and Responsibilities Act 2006 is in any way limited, restricted or interfered with by the contents of this policy.

A Human rights assessment has been undertaken and it is considered that the Election Period Policy is consistent with, and in some instances advances rights outlined in the Charter.

The human rights most relevant to this policy are:
- Your right to recognition and equality before the law (section 8)
- Right to privacy and reputation (section 13)
- Your right to taking part in public life (section 18)

Other Relevant Documentation
- ~~06176~~ Councillor Code of Conduct
- ~~09580~~ Cr ~~Resource and~~ Expense ~~Entitlements~~ Policy ~~2012~~
- ~~15753~~ Staff Code of Conduct
- ~~16674 & 16675~~ Councillor and Staff Interaction Protocol
- Councillor Gifts Policy

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Definitions and key terms used this Policy

Advertising sign	Means play place card, board, poster, banner, sign, card, structure or another similar device, whether portable or affixed or attached to any land, building, vehicle, trailer, person or other thing, used for the purpose of soliciting goods or services or displaying information but excludes any place card, board, poster, banner, sign, card or similar device attached to or on any device or trailer. a) and used for the purposes of promoting a registered political party or a person's candidature or prospective candidature at an election; or if the use of the vehicle or trailer is ancillary to another connected with activities being carried out on land (such as the use of a vehicle or trailer in connection with building or commercial activities being carried out on land).
Chief Executive Officer (CEO)	means: a) the person appointed by Council to be its Chief Executive Officer under section 44 of the Act, or any other person actig in that position; and or b) the Chief Executive Officer delegate c) or any other person that the Chief Executive Officer selects for the purpose of giving effect to this Policy.
Council	means the Banyule City Council, whether constituted before or after the commencement of this Policy.
Council controlled land	means any land which Council owns, occupies, manages, has leased or licensed to another person or is otherwise under Council's control and management, other than a road.
Candidate:	means a person: 1. who has been nominated as a candidate for an election under section 256 of the Act 2. who has: • publicly expressed an intention to run as a candidate in the election; and or • a person who has formally nominated as a candidate in the election with the Election Manager. A candidate is a "known candidate" when a person has actual knowledge of the candidates identify and that they meet the above definition.
Councillor-candidate	means a current Councillor who has nominated, or is considering nominating for the election in the 26 October 2024 general elections.

Election Period	The statutory caretaker requirements apply during the "election period". *Local Government Act 2020* (The Act) defines the election period to be the 32 day period that starts on the last day of nominations and ends at 6 p.m. on the Election Day. For the 2020 2024 Council elections, this means that the mandatory election period will be: From midnight on 22 24 September 2020 2024 through to until 6 p.m. on 24 26 October 20202024.
Prohibited Decisions	Section 69(2) of the Local Government Act 2020 (2020 Act) the Act outlines the types of decisions that an Election Period Policy must prohibit during an election period. These are decisions that: • relates to the appointment or remuneration of the Chief Executive Officer • commits the Council to expenditure exceeding one per cent of the Council's income • could be reasonably deferred until after the election Section 69(3) prohibits any Council decision that would enable the use of Council resources that is intended to or would likely influence voting at the election. Note that this prohibition also applies to delegated decisions by committees or Council Staff
Publication	means: a) a published work in any form (e.g. hardcopy or digital) including but not limited to brochures, articles, letters, posters, policies, strategies, papers, letters commentary. b) the act or process of publishing.
Publish	means publish by any means including a publication on the internet.
Public consultation	means a process which involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, that includes discussions on that matter with the public.
Significant decisions	Significant decisions that may irrevocably commit the incoming Council to substantial expenditure or to other significant actions; and decisions that may have an irrevocable and/or significant impact on the municipality or a significant section of the community
Council resources	Section 304(1) of the 2020 Act prohibits the use of Council resources in a way that is intended to or is likely to affect the result of an election. Council resources include Council funded/purchased items including: • Councillor and Corporate letterhead • Staff • Assets (Including Council vehicles) • Photos • Hospitality • Services • Property

	• Equipment • Stationery
Electoral ~~material~~matter	Under section 304(2) a Councillor or member of Council staff must not use Council resources to 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 the Council Electoral ~~material~~ matter is any matter that is "intended or likely to affect voting in an election" (excluding material produced by the returning officer for the purpose of conducting the election). • Publicises the strengths or weaknesses of a candidate • Advocates the policies of the Council or of a candidate • Responds to claims made by a candidate • Publicises the achievements of the elected Council • Publicises matters that have already been the subject of public debate • About matters that are known to be contentious in the community and likely to be the subject of election debate • Referring to Councillors or candidates by name or by implicit reference. This include Council publications that are produced for the purpose of communicating with people in the community, including: • Council newsletters • Advertisements and notices • Media releases • Leaflets and brochures • Mailouts to multiple addressees • The publication of such material on the internet.
Electoral material	means an advertisement, handbill, pamphlet or notice that contains electoral matter, but does not include advertisement in a newspaper that is only announcing the holding of a meeting.
Electioneering	means any action, statement or publication that contains material directly related to, or likely to influence, a Councillors election or a candidates election.
Election Manager	means: a) The Victorian Electoral Commission; or b) the person appointed in writing by the Victorian Electoral Commission
Nomination day	means the last day on which nominations to be a candidate at a Council election may be received in accordance with the Act or / and the regulations (s.3)
Road	Road includes: a) a street; and

	b) a right of way c) a public highway; and d) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958, and e) a public road under the Road Management Act 2004; and f) a passage; and g) a cul de sac; and h) a by-pass; and i) a bridge or ford; and j) a footpath, bicycle path or nature stripl and k) any culvert or kerbing or other land; and l) works forming part of the Road.
Staff, Member of Council staff, Staff member	means any employee of Council whether permanent or temporary or casual, and includes contractors and volunteers carrying out work for or on behalf of Banyule City Council.

2. Policy Scope

This policy applies to all Councillors, officers and contractors of Banyule City Council.

3. Policy Purpose

The Election Period Policy has been developed in accordance with the *Local Government Act 2020* ~~in order~~ to ensure that general elections on Saturday 26 October 2024 (and subsequent elections) for Banyule City Council are conducted in a responsible, fair, equitable and transparent manner, and in accordance with statutory requirements and established "caretaker".

The Policy covers the following:

- Decision making
- Misuse of resources
- Public consultation & events
- Equitable access to council information
- Council prohibition on publications or distributing material likely to influence voting

4. Policy

4.1 Decision Making

To ensure that Council does not make inappropriate decisions (as defined by Section 69(2) and (3) of the 2020 Act) during the election period, the following will apply:

Council will not schedule or conduct a Council Meeting in the election period.
A person acting under delegation must not make a major policy decision.

If exceptional circumstances arise, an ~~Unscheduled~~ Special Council ~~-~~meeting may be called for urgent items only that cannot be held over until the end of the election period. Council cannot make any ~~-~~inappropriate decisions that would affect voting in an election or decisions that can be reasonably made after the election and include Major and Significant decisions.

An ~~unscheduled~~ special Council meeting (called in accordance with the Governance Rules) may only be called in the following circumstances:

- the matter is urgent
- the decision is significant and cannot be reasonably deferred without major negative repercussions
- is required for operational purposes
- pursuant to a statutory requirement
- a decision cannot wait until after the election

As Council will not be holding an Ordinary Council meeting during the election period, the following headings under "Prohibited Decisions and Significant Decisions" only apply to reports for an ~~Unscheduled~~ special Council m~~M~~eeting.

The Chief Executive Officer will be responsible for determining if a matter is significant or urgent.

4.1.1 Prohibited Decisions

During the election period, Section 69~~(2) and (3)~~ of the 2020 Act **prohibits** Council making any 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 (1%)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.~~the

(c) If the above decisions are made during the election period, they are deemed invalid.

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

4.1.2 Significant Decisions

Decisions - Council

In addition to the decisions specified in section 69 of the 2020 Act, a Council is prohibited in making decisions during the election period that are of a significant nature and which would unnecessarily bind an incoming council. These include:

- adopting any new Policy, Strategy or Local Law
- major planning scheme amendment
- allocating community grants or other direct funding to community organisations
- changes to strategic objectives and strategies in the council plan.
-

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

Councillors will comit to refrain from moving motions on or raising matters at Council meetings that could potentially influence voting at an election.

Delegates- Staff

Note that this prohibition also applies to delegated decisions by committees or Council Staff. The ordinary day-to-day business of local government must continue throughout the election period. the business will be conducted by Council, it's delegates and staff in a responsible and transparent manner, in accordance with statutory requirements.

Most decisions are not made at meetings of the Council. Significant decision-making power is formally delegated to staff and the decisions of a delegate is 'deemed' to be a decision by Council. Because a delegate's decision is the same as a Council decision, the same constraints that apply to decisions made in Council meetings apply when delegates mak either decisions.

Delegates should therefore give careful considering to the exercise of their powers during the election period.

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

4.1.3 Caretaker Statement - Unscheduled Council Meeting Reports

During the election period, the Chief Executive Officer (CEO) will ensure that an "Election Period Statement" is included in every report submitted to an Unscheduled Council meeting (if required) for a decision.

The "Election Period statement" will specify one of the following:

Not a prohibited or significant decision	The recommendation will include "it is not a "Prohibited Decision", as defined in section 69(2) and (3) of the *Local Government Act 2020*, or a "Significant Decision" within the meaning of Council's Election Period Policy."
Not a prohibited but a significant decision	The recommendation will include "is not a "Prohibited Decision" within the context of *Local Government Act 202*0. The recommended decision is a "Significant Decision" within the meaning of Council's Election Period Policy, but an exception should be made for the following reasons [insert reasons for making an exemption]".
Seek an exemption from the Minister	The recommendation will include "That Council seek an exemption from the Minister because the matter requires a Prohibited Decision" within the meaning of section 69(2) and (3) of the L*ocal Government Act 2020*".

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

4.2 Council Resources

Council resources must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign or related activity.

4.2.1 Misuse of Position

Council resources are not to be used for campaigning by sitting councillors to increase advantage over other candidates or to influence voters.

Councillors cannot use their current (or former) position as a councillor to gain access to information or resources that would otherwise not be available. Councillors that are not candidates cannot use information or resources to assist another candidate.

~~Section 76D~~ section 123 of the ~~1989~~ 2020 Act, imposes serious penalties on a Councillor who misuses ~~his or her~~ their position for private benefit.

N~~otes~~

~~Section 76D Misuse of Position~~

~~(1) A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position—~~

~~(a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or~~

~~(b) to cause, or attempt to cause, detriment to the Council or another person.~~

~~**Penalty: 600 penalty units or imprisonment for 5 years or both**~~

~~(2) For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include—~~

~~(a) making improper use of information acquired as a result of the position he or she held or holds; or~~

~~(b) disclosing information that is confidential information within the meaning of section 77(2); or~~

~~(c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or~~

~~(d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or~~

~~(e) using public funds or resources in a manner that is improper or unauthorised; or~~

(f) failing to disclose a conflict of interest as required under this Division.

4.2.2 Mayor and Councillor Support

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

4.2.3 Use of Council Equipment by Councillors

Councillors must not use Council issued equipment (including mobile phones, tablets, laptops, computers and/or printers) as a resource to assist with election campaigns.

Councillors can return equipment if they choose, during the election period.

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal and day to day Council duties, subject to existing protocols and terms of use.

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

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

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

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

4.2.4 Councillors' Entitlement to Reimbursement

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 support or are connected with a candidate's election campaign or personal use.

This will be inline with Councils adopted Council Expenses Policy.

4.2.5 Travel and Accommodation

During the election period Councillors shall not participate in any interstate or overseas travel in their capacity as a Councillor. In circumstances where it is imperative that the Mayor (or nominee) represent Council on a delegation or forum, Council may, by resolution, approve such attendance. If consideration by Council is impractical, the Chief Executive Office may determine the issue.

4.2.6 Council Branding

No Council events, logos, letterheads, business cards, postage, uniforms or other Council identifying items, or other material such as photographs sourced or created by Council or other Banyule branding should be used for, or linked in any way to, a candidate's election campaign.

Councillor candidates are to be mindful of reproducing Council information on personal websites and social media as they are subject to copyright.

Councillor candidates should not create the perception that Council in any way endorses their views or supports their election campaign presented on personal websites or social media by misrepresenting Council branding during campaigning and the Election Period. Council remains at all times impartial and unbiased.

4.2.7 Data-bases and mailing lists

The databases and mailing lists held by the organisation remain the property of the Council and are subject to the requirements of the *Privacy & Data Protection Act 2014*, and are therefore not available to members of the public, candidates or to councillors.

4.2.8 Further Advice

In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.

4.3 Public Consultation & Events

Public consultations and events must be avoided during the election period.

4.3.1 Public Consultations

Council will not commence public consultation during the election period.

Where public consultation activities are necessary during the election period to facilitate the day to day business of Council and ensure matters continue to be proactively managed, any such public consultations will avoid express or implicit links to the election. Such consultation must be assessed on whether it is a contentious or politically sensitive matter.

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right to postpone a matter if the issue is likely to affect voting.

4.3.2 Council Events/functions

Where Council organised events and functions cannot be held before or after the Election Period they will be reduced to only those essential to the operation of the Council. These include annual State wide events such as Children's Week and Seniors week.

Where the public event is totally un avoidable they will require the express permission of the Chief Executive Officer.

Speeches & Invitations
Councillors must not give speeches at council events.

Invitations will be issued by the Banyule City Council and not under the name of the Mayor or Councillors.

Events
Under no circumstances may candidates use Council events to campaign.

No political or campaign signage or material is permitted to be displayed or distributed at Council events.

4.3.3 Non Council Events

Councillors may from time to time be invited to attend non-Council events from external groups. Councillors may attend non-Council events during the election care taker period. Should Councillors make a speech at such events they should disclose they are doing so in their own private capacity and not as a member of the Council.

Criteria for Chief Executive Officer approval

Where the Chief Executive Officer is required to determine if a consultation, function or event is to be conducted during the election period, the Chief Executive Officer should consider:

- whether the content of the event is likely to be controversial
- whether the event could have significant consequences
- whether the event could wait until after the election
- the financial implications if the event was held during the election period or deferred until after the election
- the best interests of the Council

- whether the event is an ongoing yearly event therefore considered normal practice to continue i.e. children's week

4.4 Access to Information

Factual information on existing Council programs, policies and/or projects will be available to all candidates. Council recognises that all election candidates have rights to information from the Council administration. Councillor Candidates will be treated in the same way as other candidates with respect to access to Council held information.

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. There shall be complete transparency in the provision of all information and advice during the election period.

4.4.1 Assistance to Councillors

Councillors will be able to obtain relevant information that is needed to perform their roles as Councillors. Councillors will not be able to obtain information that can be used for electioneering purposes.

Where Councillors are seeking to obtain Council information to use as part of their election campaigns the procedures as outlined in 4.4.2 Assistance to Candidates will apply.

Information and briefing material prepared by staff for Councillors during the election period will relate to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities.

Should Councillors be approached by residents requiring information during the election period, Councillors must direct the residents to contact the administration.

Should a Councillor request information during the election period, it will be provided, subject to the Councillor demonstrating that the information relates to a current issue (ie. an issue that has previously been raised with the Council) and cannot be dealt with after the election period.

All requests by Councillors must be directed to the Chief Executive Officer, any request deemed outside of normal business will be declared on the information register as outlined in 4.4.3.

4.4.2 Assistance to Candidates

During the election period all candidates for the Council election will be treated equally. All election related enquiries from candidates, whether 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 or a designated member of Council staff.

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.

When contacting Council, candidates are to advise that they are acting as a candidate or prospective candidate.

Candidates may be approached from time to time while campaigning by residents with service requests or complaints. Candidates must not seek to act as an intermediary between the resident and Council in these matters. Council will not liaise with candidates in relation

to resolving the service issue or complaint of a third party, they will only deal directly with the affected party.

4.4.3 Information Register

1. An Information Request Register will be maintained by the Governance Department commencing on the opening of nominations ~~on Thursday 17 September 2020~~. This Register will be a public document published on Council's website that records all requests for information of a non-election nature **by all candidates**, and the responses given to those requests.

2. Responses to candidate's requests – as per clause 1. - will be provided by Managers, Directors or the Chief Executive Officer.

   The request for information will have regard to the following:

   - Whether the request is reasonable request ie are not voluminous
   - Commercial in confidence
   - Privacy legislation
   - Confidential matters
   - Freedom of Information legislation

▪

4.4.4 Staff Involvement

Council staff must not campaign either directly or indirectly for any candidate in the Banyule City Council election.

Any staff member that becomes aware that a candidate for the election is a friend, relative or associate, should declare this to their Manager and the Chief Executive Officer in writing.

4.5 Council Publications & Communications

The recommended practice – in line with State and Federal Governments – is where possible to avoid all publication activity during the election period except where it is essential for the conduct of Council operations.

Council communications are a legitimate way to promote Council activities and services and should not be used in any way that might influence the outcome of a Council election. Where a publicity campaign is deemed necessary for a Council service or function, the Chief Executive Officer must approve it.

4.5.1 Prohibited Material

Under section 304(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 or matter during the election period on behalf of the Council.

This is to ensure the Council does not publish material with public funds that may influence, or be seen to influence, people's voting decisions.

The Act contains offences for breaches of section 304. A breach may be prosecuted in Court and, if a person is found guilty, he or she may be convicted and fined up to 60 penalty units.

This includes:
A Councillor or member of Council staff who intentionally or recklessly authorises, prints, published or distributes an uncertified publication containing electoral matter.

The words "advertisement, handbill, pamphlet or notice" are to be interpreted broadly and will include, amongst other things:

- Brochures, pamphlets, handbills, flyers, magazines, and books
- newsletters and other circulars (hardcopy and / or electronic)
- new website material and social media posts
- mass mail outs or letters to a large number of people
- media releases
- material to publicise a function or event
- notice or posters placed on Council controlled property, including walls, noticeboards, and electronic noticeboards and screens.

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

Notes
Prohibition on Councillor or member of Council staff

(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.

Penalty: 60 penalty units.

(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 unless the electoral material only contains information about the election process or is otherwise required in accordance with, or under, any Act or regulation.

Penalty: 60 penalty units. (3) Despite section 98(2), the Chief Executive Officer must not delegate the power to certify any advertisement, handbill, pamphlet or notice under this section to a member of Council staff.
(4) A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.

Penalty: 60 penalty units.

4.5.2 Information, Publications, Media during election period

Social Media

Any publication on Council's social media sites such as Facebook, Instagram and Twitter during the election period must be certified by the Chief Executive Officer.

The Mayoral Facebook page will be suspended during the election period.

Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available to ensure no electoral matter is posted and all social media activity during the election period is to conform with the following:-

- Facebook, Instagram and Twitter posts to be kept to minimum, normal day-to-day activities only.
- No launches or announcements of any new projects, policy initiatives, or programs.
- No matter is permitted that may be construed as ***electoral matter*** – sites should be reviewed to ensure there is none.
- No hosting or responding to political content at all is permitted.
- Any election related comments/posts by the public should be deleted as soon as possible.
- The only information regarding the election that can be posted and responded to is regarding the location of voting booths.

Personal Councillor Social Media Accounts

Personal Councillor and candidate social media accounts should be used in accordance with sections 4.2.1, 4.2.3 and 4.2.6 of the Election Period Policy.

Any candidate using material which is linked to Council on personal social media accounts should include a statement that they act as an individual and not a member of Council.

Council Publications including Councillor Information

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

Annual Report

Council is required ~~under sections 131 and 133 of the 1989 Act to~~ to produce and put on public display a copy of its Annual Report. The ~~2019~~2023 ~~2020~~ 2024 Annual Report may be published during the election period.

The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

Website

Material published on Council's website in advance of the election period is not subject to certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the caretaker period.

Any new pages or new material to be updated on the website during the election period will require certification.

Councillor contact information will remain available on the Councillor profile pages but will be limited to names, contact details, date elected and membership of committees. Councillor profile photographs, profiles or policy statements will be removed.

Any reference to the election on the website will be restricted to process only.

If a Councillor maintains a private website, the Councillor should place a disclaimer on the website to the effect that no Council resources are being used to communicate political material.

Media

Media releases will not mention or quote any Councillor(s) during the election period. The Chief Executive Officer is the spokesperson for the Council during this period.

During the election period, no Council officer may make any public statement that relates to an election issue unless prior approval has been obtained by the Chief Executive Officer or ~~his or her~~their delegate.

The Banner and Councillor Ward newsletter

The Banner and Councillor Ward newsletter will not be published or distributed during the election period. The Chief Executive Officer will determine an appropriate cut off period for distribution of any publications that contain Councillor material, such as the ward newsletters, to ensure none are in circulation during the election period.

Other publications and bulk mailouts

There are to be no bulk mailouts to the community or to ratepayers.

Correspondence

Responses to correspondence will be signed by the relevant Director, Manager or Chief Executive Officer.

Criteria for Chief Executive Officer **approval**

The Chief Executive Officer will not grant approval for a publication that refers to:

- the election (other than about the election process);
- election candidates, including current councillors; or to
- issues which may be before the voters in an election.

The Chief Executive Officer may grant approval to a publication that contains information:

- about the election process; or
- about Council's services, but does not refer to a current councillor.

All publications will require vetting by the Governance department prior to Chief Executive Officer certification.

Campaign Material

Councillors producing their own campaigning publications should not mislead or give the impression the content has been produced or endorsed by Council.
Material as detailed in 4.2.6 should not be used in personal campaign publications to be sure not to mislead the public of the intent or origin of the publication.

HUMAN RIGHTS CHARTER – ASSESSMENT OF COMPATIBILITY

APPENDIX A

In accordance with section 28 of the *Charter of Human Rights and Responsibilities Act 2006*, this statement of compatibility is made with respect to the G**overnance Rules.**

Objectives

- To ensure transparency and accountability strengthen governance and accountability
- To provide confidence to the community in the way Council operates
- To provide access to information and documents
- To ensure information is accessible and clear

Human Rights Assessment

What human rights are impacted? List each right - refer to Appendix A – Your Rights Explained for a detailed explanation of rights.	**Are human rights supported?**	**Will any person feel their rights are limited and why?** Refer to 'Limiting Rights' on page 2 of the Human Rights Guidelines for advice.	**What are the interests you have to balance?** List any other interests of the community that need to be considered.	**Is the limitation reasonable?** Against each right limited, state why the limitation is reasonable.
Right to recognition and equality before the law (section 8)	Yes - Councils must not knowingly be in breach of the Charter of Human Rights and Responsibilities and must always consider them when they create laws, develop policies and deliver services. Council reports which form part of the business considered at Council meetings must consider these rights. At Banyule, a section on Human Rights forms part of the Report template. Reasonable adjustments are made for all people wanting to participate.			

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Right to privacy and reputation (section 13)	Yes - Council's public participation policies requires names and addresses. Only the person's name and suburb are mentioned in the meeting. Submitters are advised of this including whether they would like to pass on any details to the local media. It is an opt in process. The request to speak and public question time provides guidelines on the types of things that cannot ie make defamatory, derogatory or comments that may embarrass others.	All Council participants must not divulge (Councillor, staff & members of the public) moderation may be required at time to remove personal information which impacts the other rights on expression of interest and right to participate in public life.	The right to privacy and reputation are important rights, in particular with public records and information on websites and recordings effectively remaining in the public realm forever. Once the information is made public is difficult to retract.	Yes, Members of the public are advised what information will form part of the public records.
Right to freedom of expression (section 15)	Yes, guidance is provided	A Councillor/Visitor has the ability to participate in a respectful manner and contribute to the Good Governance of the Council meeting. Council's Guidelines for request to speak and public questions are consistent with state government requirements and supports other rights to be balanced against this right.	Rules on Councillor conduct and public participation support other rights such as 'the right to privacy and reputation' and 'Peaceful assembly and freedom of association (section 16)' and 'Right to take part in public life (section 18)'	Yes, the guidelines on participation are made available and are consistent with State Government moderation rules to protect others and their rights. Limitations apply both to Councillors and visitors to support orderly conduct of meetings.

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Peaceful assembly and freedom of association (section 16)	Yes, provisions in the Rules provide for orderly conduct	Council must preserve the objective of setting the rules of behaviour for those participating in or present at Council meetings. By ensuring that visitors must not interject or take part in the debate protects the integrity of the formal meeting proceedings and protects the rights of all to a respectful meeting. Similar rules apply to Councillors and the Mayor has the ability to request a stop to certain behaviour.	Council meetings exist for Council to make decisions. The right to take part in public life is provided in many forms and the rules of engagement apply for assist in peaceful and orderly meetings.	It is considered reasonable to preserve the public order of Council meetings. The Rules provide for the Mayor to ask the behaviour to be stopped and where the behaviour continues the Mayor may request the person to leave the chamber.
Right to take part in public life (section 18)	Yes	While the Draft Governance Rules imposes procedural limitations, it does so in a manner which is considered proportionate to its purpose and objectives, taking into account the need to provide notice of business to be conducted at a meeting and the efficient and orderly conduct of meetings.	The need to run effective meetings and responsibilities of employers for the health and safety of all participants. Rules for speaking times and conduct apply to both Councillors and members of the public. Council meetings are not the only avenue for members of the public to participate and	The limitation for the public is reasonable and a limitation on speaking times is also applicable to Councillors to allow for the orderly conduct of meetings. (The speaking times for the public do not form part of the draft rules)

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			have their views heard. The rules need to apply the whole Banyule community and this means equal access to the Councillors and Executive via normal methods of contact and not just council meetings.	
Right to a fair hearing (section 24)	Yes	Rights supported by providing Councillors an opportunity to speak. Members of the public are provided with opportunities to address the Council.	Speakers will not be interrupted or written statements amended where they comply with the rules of participation. This applies to both Councillors and members of the public.	It is considered reasonable to preserve the public order of Council meetings and provide access equally to the community.