

# Chapter 3 – Community Participation – Council Meetings

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## Division 15 - Community Participation

### Introduction

Council meetings are an opportunity for Councillors to participate in discussion and debate on matters that benefit the wellbeing of the community, so that decisions can be made that represent the overall public interest of the municipality. In accordance with the *Local Government Act 2020*, Council provides community members with an opportunity to participate in meetings of Council in the following ways:

- Lodging a formal Request to Speak;
- Registering a Public Question; and
- Lodging a Petition.

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

Chapter 3 of the Governance Rules should be read in conjunction with Council's Customer Service Promise, Unreasonable Customer Behaviour Policy, and the Councillor Code of Conduct.

### 65 Public addressing the meeting – General rules and guidelines

- (1) At a meeting of Council, when Council has not resolved to close the meeting in respect of a matter under section 66(2) of the Act, time may be allocated in accordance with these Governance Rules to enable any person to address Council on a matter included on the agenda (submissions), or matters relating to strategic policy, advocacy, or representation (public questions).
- (2) Request to Speak submissions, Public Questions and Petitions should be confined to the criteria set in these Governance Rules and directed to the Chair or the Mayor of the day.
- (3) If Council decides to defer discussion on an agenda item to a later date, any person registered to speak to Council on that item will be informed on the revised date. 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 or Mayor whenever called on to do so.
- (4) A member of the public in attendance at a Council meeting must not disrupt the meeting, and any attempt to do so could result in a point of order being called by the Chair or a Councillor present in the meeting.
- (5) Silence must be preserved in the gallery at all times.
- (6) Members of the community are reminded that Councillors, Council staff, and other community members present at the meeting and in the gallery, are part of an inclusive community. All community members have the right to be in a safe environment free from verbal or physical threats of violence.
- (7) The Mayor or Chair of the Council meeting has the discretion to make any allowances or take into account any other considerations, outside of the limits set in these Governance Rules, in relation to Community Participation at a Council meeting.

## 66 Chair may Remove

The Chair may order and cause the removal of any person (a member of the gallery and/or a Councillor), who:

- disrupts any meeting;
- Has engaged in conduct which immediately threatens the stability of the meeting;
- Wrongly threatens the authority of the Chair in chairing the meeting; or
- fails to comply with a direction given under Rule 65.

*Additionally, there is an express power given to the Mayor under section 19(1)(b) of the Local Government Act 2020 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.*

*It is intended that this power be exercisable by the Mayor, without the need for any Council resolution.*

## 67 Request to Speak

The Request to Speak mechanism provides community members affected by an upcoming decision of Council with the opportunity to:

- have their views heard; and
- address Councillors on meeting agenda items before that decision is made.

While community members can contact Council through regular customer contact avenues available at Council at any point, the formal Request to Speak process gives the community a final chance to share their point of view. The terms 'public submissions' and 'submissions' are used interchangeably with the term Request to Speak. Each of these terms therefore has the same meaning within these Governance Rules

- (1) A member of the public may Request to Speak at a Council meeting on any agenda item listed for that meeting.
- (2) A Request to Speak must be lodged by 12pm on the day of the meeting, and can be lodged by:
  - (a) formally making a request through the established 'Request to Speak' portal on the [Banyule website](#); or
  - (b) lodging a request in writing and delivering it to: Governance, Level 3, 1 Flintoff Street, Greensborough, or 275 Upper Heidelberg Road, Ivanhoe.
- (3) Members of the public may address Council by:
  - (a) providing a written submission to be read out by a staff member at the Council meeting;
  - (b) submitting a pre-recorded video message to be shown at the Council meeting;
  - (c) submitting a pre-recorded audio message to be played at the Council meeting; or
  - (d) attending the Council meeting to speak in person to Council directly (once a formal request is lodged).
- (4) Any member of the public that has registered to speak to Council can Request to Speak to a maximum of 2 agenda items per meeting.

- (5) The maximum number of speakers permitted to speak to an item listed on the Agenda is 3 speakers *for* an agenda item, and 3 speakers *against* an agenda item. This aims to achieve a well-balanced and fair representation of views to the relevant agenda item.
- (6) Each speaker will be invited to speak prior to the relevant agenda item being considered by Council.
- (7) The maximum time for which a person is permitted to speak per agenda item is 3 minutes, with any extension at the discretion of the Mayor or Chair.
- (8) The speaker must stay on topic of discussion (the agenda item that was the subject of the formal Request to Speak). If the statement does not relate to the agenda item that was formally requested, or satisfy the criteria as detailed in rule 68, the Mayor or Chair may direct the speaker to confine their comments to the subject of the relevant agenda item. If the Mayor or Chair issues such a direction, the submitter must contain their submission to the agenda item only, or cease any commentary that is in breach of these Governance Rules.
- (9) A Councillor or staff member may seek clarification from the speaker through the Mayor or the Chair to further understand the speaker's point of view. It will be at the discretion of the Mayor or Chair as to whether a request for clarification is permissible.
- (10) All clarifications must be as brief as possible, and no discussion or debate may be allowed by Councillors at this time, other than for the purposes of clarifying matters raised in the submission.
- (11) Statements must not use derogatory, defamatory, or objectionable language, and must not be directed to any individual Councillor, member of staff, ratepayer, or member of the public, or relate to their personal circumstances. In the instance that they are, the Mayor or Chair will ask the speaker to cease speaking.
- (12) All speakers must take direction from the Mayor or Chair during the verbal submission process.
- (13) In the instance where a 'head submitter' speaks on behalf of a group of individuals, they are entitled to do so but with only a maximum of 3 minutes, or as otherwise determined at the discretion of the Mayor or Chair.
- (14) A speaker can request that another person speak on their behalf in their capacity as a proxy.
- (15) If a speaker wishes for a proxy to speak on their behalf, they will have the opportunity to declare as such at the time of lodging their Request to Speak. If they do not declare as such at the time of lodging their Request to Speak, but still wish for a proxy to speak on their behalf, they may contact the Governance and Integrity Department to inform them of this at any time before 12pm on the meeting day.
- (16) A submission may be disallowed by the Chair if it:
  - (a) does not relate to the agenda item as published for that particular meeting;
  - (b) deals with a particular aspect of the subject matter which has already been addressed by a previous speaker;
  - (c) relates to a matter outside the duties, functions and powers of Council;
  - (d) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (e) is aimed at embarrassing a Councillor or a member of Council staff;
  - (f) is a submission that is directed at an individual Councillor or member of Council staff;

- (g) relates to a personnel matter or the personal hardship of any ratepayer or resident, Councillor or member of Council staff;
  - (h) deals with a matter that should be, or has been considered as a confidential matter, or relates to any matter in respect of which Council may close the meeting to the public under section 66(1) of the Act;
  - (i) relates to a matter that is subject (or, in opinion of the Chair, potentially subject) to legal proceedings;
  - (j) relates to any other matter the Mayor or Chair considers would prejudice Council or any person; and/or
  - (k) is submitted in circumstances where the speaker has not lodged a form in accordance with these Governance Rules.
- (17) If a Request to Speak is received after 12pm on the meeting day, the speaker will be advised in writing, that the deadline has closed. The submission will be provided to the Mayor or Chair and, if it meets the criteria outlined in rule 67 of these Governance Rules, it may be accepted at the discretion of the Mayor, Chair or the Chief Executive Officer.

## 68 Public Questions

Public Question time is an opportunity for members of the public to ask questions directly to Council. Public Question time is not intended to be an alternative to the regular customer request process at Council. This is an opportunity for community members to ask questions regarding matters of strategic policy, advocacy, or representation directly to Council and should be used for these purposes. These questions and answers will be recorded in the minutes of the meeting (on the public record) and, where the resident has provided consent, will include the name of the submitter for reference.

- (1) A member of the public may lodge a Public Question to be asked at a meeting of Council.
- (2) Public Questions must be lodged by 12pm on the Friday prior to a Council meeting, and can be lodged by:
  - (a) formally lodging a Public Question on the [Banyule website](#); or
  - (b) lodging a request in writing and delivering it to: Governance, Level 3, 1 Flintoff Street, Greensborough or 275 Upper Heidelberg Road, Ivanhoe.
- (3) Questions received after 12pm on the Friday prior to the scheduled Council meeting, will be included in the next scheduled Council meeting, unless the Chief Executive Officer determines to include it.
- (4) All Public Questions must be legible and in English.
- (5) Where requirements to present a question in writing and/or in English, unreasonably prevents or hinders a person's participation in Public Question time, assistance with submitting questions (including via an interpreter service, if required) is available from Council. Details on Council's available interpreter services can be located at <https://www.banyule.vic.gov.au/Contact-us> or by telephone on (03) 9490 4222.
- (6) A person can submit a maximum of 1 question, per Council meeting.
- (7) A Public Question must not:
  - (a) relate to any agenda item listed for that Council meeting; or
  - (b) exceed 1500 characters.
- (8) Public Questions and answers will be read out at the end of the Council meeting by a member of Council staff.

- (9) If the person who submitted a Public Question is present in the gallery at the Council meeting, they may read out their submitted Public Question only (context and background will be described if required by the officer introducing the question).
- (10) If the person who submitted a Public Question is not present in the gallery at the Council meeting, their Public Question will be read out by a member of Council staff.
- (11) All Public Questions and answers will be recorded in the meeting minutes, with a written response to the Public Question also provided to the person who submitted it, using the contact details provided.
- (12) If a Council meeting is still in progress at 10.30pm, the Mayor or Chair may, at their discretion cease Public Question time for that meeting in the interest of the meeting duration. All Public Questions and answers will be recorded in the meeting minutes for that meeting and provided to submitters.
- (13) The names of all people who have submitted a Public Question will be available to Councillors and members of the Executive Management Team and Governance and Integrity Department.
- (14) Unless the person submitting a Public Question has asked to be anonymous, or for their name to be withheld and not included in the public agenda, their name will be detailed in the meeting minutes of the relevant Council meeting.
- (15) A Public Question may be disallowed if the Mayor or Chair, upon advice from the Chief Executive Officer and Manager Governance and Integrity, determines that the question:
  - (a) is not submitted in accordance with rule 68 of these Governance Rules;
  - (b) relates to a matter outside of the duties, functions and powers of Council;
  - (c) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (d) deals with subject matter already answered at the Council meeting;
  - (e) is aimed at embarrassing a Councillor or a member of Council staff, or relates to the personal views or actions of an individual Councillor or Member of Council Staff;
  - (f) relates to the conduct or performance of a Councillor or Member of Council Staff;
  - (g) relates to personnel matters, matters regarding the personal hardship of any resident or ratepayer, industrial matters, contractual matters, proposed developments, legal advice, matters affecting the security of Council or Council property, or any other matter which Council considers would prejudice Council or any person;
  - (h) would require the advice of the Chief Executive Officer;
  - (i) would require an unreasonable diversion of Council resources if a response were to be prepared for Public Question time
  - (j) cannot be answered without disclosing confidential information as defined by section 3 of the Act or otherwise breaching Council's confidentiality requirements under any other legislation;
  - (k) relates to a Councillor Conduct Matter which is currently subject to a formal process, such as an Internal Arbitration, Councillor Conduct Panel process;
  - (l) relates to information which is legally privileged or any activity which is currently the subject of a legal investigation; and/or
  - (m) has been previously asked and answered by Council in the last 12 months through a formal Public Question.

- (16) If, upon receipt of a Public Question, the Chief Executive Officer or Manager Governance and Integrity determines it meets the above requirements for disallowing a Public Question, written notification will be provided to the named person advising why the Public Question cannot be accepted and is therefore disallowed.

## 69 Petitions

Petitions are a long-established process whereby members of the community can submit petitions, to demonstrate community support for or views on a request or matter, which is to be presented directly to Council.

Full petitions, including all signatures and personal information of signatories, are provided to members of the Governance and Integrity Department, Executive Leadership Team and Councillors. Signatures and personal information of signatories will **not** be included in the public agenda. Unless they have obtained the prior written consent of an individual signatory, Councillors are **not** to contact any of the signatories except for the lead petitioner.

- (1) Every petition submitted to Council must:
  - (a) be on the appropriate Council petition template;
  - (b) be in legible and permanent writing;
  - (c) be clear, with the relevant matter and action sought from Council stated on each page;
  - (d) not be derogatory, defamatory, or objectionable in language or nature;
  - (e) not relate to matters outside the powers of Council; and
  - (f) 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 department within Council for action as an operational item to be dealt with by the relevant work area. It will not be tabled at a Council meeting.
- (3) All petitions are due to be submitted to Council three (3) weeks before the Council meeting at which it is to be tabled. Once the Council meeting agenda is published (three (3) weeks before the meeting), no additional signatures will be added to the officer report for consideration at that Council meeting. Dates and deadlines for petition submission for each Council meeting are listed on Council's website.
- (4) Nothing in sub-rule (3) prevents a person from continuing to collect signatures on a petition after it is submitted to Council, but those additional signatures will not be tabled at the Council meeting. They will instead be provided to the relevant department for consideration after the Council meeting if further action on the petition is taken.
- (5) Subject to sub-rule (1)(a), petitions can be submitted by:
  - (a) formally lodging the petition online on Council's website;
  - (b) delivering the petition in writing to: Governance and Integrity Department, Level 3, 1 Flintoff Street, Greensborough; or 275 Upper Heidelberg Road, Ivanhoe.;or
  - (c) using Council's e-petition platform once it is developed
- (6) Any Councillor presenting a petition is responsible for ensuring that:
  - (a) they are familiar with the contents and purpose of the petition; and
  - (b) the petition is not derogatory, defamatory, or objectionable in language or nature.
- (7) The only options for motions that may be considered by Council on any petition that is presented to them are:

**Option 1:**

- that the petition be tabled and received; and\
- that the petition be referred to the relevant Council department for consideration and response, or

**Option 2:**

- that the petition be tabled and received;
- that the petition be referred to the relevant Council department; and
- that a future report is presented back to Council responding to the petition.

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

(9) If a petition relates 'planning matter' or 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 and outlined in the table below):

<b>Statutory matters (subject to separate submissions process) (Planning)</b>	<b>Multi signatory letters (Transport and Environment)</b>
Matters under the <i>Planning and Environment Act 1987</i>	Installation or alteration of any and all parking restrictions
Building permit 'Report and Consent' process	All matters considered under the Parking Management Framework

(10) Notwithstanding sub-rule (1)(a), the Chief Executive Officer may determine that an electronic or online petition can be submitted to a Council meeting even where it has not been submitted in the form, or through the platform required by these Rules (for example change.org petitions).

(11) 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. No further signatures will be accepted beyond the original submission date.

(12) An online or electronic petition will not be presented to a Council meeting if after assessment by officers, it is determined to contain signatures that are false or misleading.

(13) Consideration will be given to the wording of any change.org petition. Where the wording on such a petition has been altered since the time it was originally prepared and signatories were first obtained, it will not be accepted on the basis that the intention of the petition may have changed.

(14) A petition will be disallowed if:

- (d) It is not submitted in accordance with rule 69 of these Governance Rules;
- (e) it relates to a matter outside of the duties, functions and powers of Council;
- (f) it is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
- (g) it is aimed at embarrassing a Councillor or a member of Council staff, or relates to the personal views or actions of an individual Councillor or Member of Council Staff;

- (h) it relates to the conduct or performance of a Councillor or Member of Council Staff;
- (i) relates to personnel matters, matters regarding the personal hardship of any resident or ratepayer, industrial matters, contractual matters, proposed developments, legal advice, matters affecting the security of Council or Council property, or any other matter which Council considers would prejudice Council, or any person;
- (j) would require the advice of the Chief Executive Officer;
- (k) would require an unreasonable diversion of Council resources if a response were to be prepared for Public Question time;
- (l) relates to a Councillor Conduct Matter that is currently under internal investigation or which is currently awaiting the outcome of an Internal Arbitration Process, a Councillor Conduct Panel, or a complaint resolution body; and/or
- (m) relates to information which is legally privileged or any activity which is currently the subject of a legal investigation.