



# Governance Rules

Made by City of Port Phillip:  
*8 September 2022*



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# GOVERNANCE RULES

## Introduction

### 1. Nature of Rules

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

### 2. Date of Commencement

These Governance Rules commence on 8 September 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	Use of the Common Seal
Chapter 8	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*.

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

*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 Port Phillip City Council.

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

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

*Mayor* means the Mayor of *Council*.

*these Rules* means these Governance Rules.

## 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*:
  - Councillor Code of Conduct
  - Staff Code of Conduct
  - Public Transparency Policy
  - Election Period Policy

### 2. Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
  - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
  - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).

## 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".

### 2. Purpose of this Chapter

The purpose of this Chapter is to:

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

### 3. Definitions and Notes

3.1 In this Chapter:

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

"*absolute majority*" means the number of Councillors which is greater than half the total number of the Councillors of the Council;

"*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*;

"*minutes*" 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*;

"*Reports by Councillor Delegates*" means a verbal or written report to Council on the activities of a committee or external body by a Councillor who is the appointed delegate to that internal committee or external body;

"*sealing schedule*" means a listing of documents (and supporting information) requiring a resolution of Council to affix the common seal of Council;

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

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

## **Part B – Election of Mayor**

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

### **4. Election of the *Mayor***

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

#### **4.1.2 Mayoral Term**

A Mayor is to be elected no later than one month after the date of a general election.

Before the election of the Mayor, Council must determine by resolution whether the Mayor is to be elected for a 1 year or a 2 year term.

- If the Mayor is elected for a 1-year term, the next election of the Mayor must be held on a day that is as close to the end of the term as is reasonably practicable.
- If the Mayor is to be elected for a 2-year term, the next election of the Mayor must be held on a day that is as close to the end of the term as is reasonably practicable.

A Mayor is to be elected within one month after any vacancy in the office of Mayor occurs. A Councillor elected to fill a vacancy caused other than by the expiration of a term serves the remaining period of the previous Mayor's term.

4.1.3 The order of business at the Council meeting to elect the Mayor is to be determined by the Chief Executive Officer.

4.1.4 Upon being elected, the Mayor may make a ceremonial speech. The purpose of the ceremonial Mayoral speech is to outline priorities for the year ahead based on the adopted Council Plan.

4.1.5 Within three months of their election, a new Mayor must undertake training to support the effective management of their role and responsibilities as it relates to the chairing of Council meetings.

### **5. Method of Voting**

The election of the *Mayor* must be carried out by a show of hands or such other visual or audible means as the *Chief Executive Officer* determines.

### **6. Determining the election of the *Mayor***

6.1 The *Chief Executive Officer* must invite nominations for the office of *Mayor*.

6.2 Any nominations for the office of *Mayor* must be seconded by another Councillor.

6.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*.

### Single Nomination

- 6.4 If there is only one nomination, the candidate nominated must be declared to be duly elected.

### Multiple Nominations and Candidate Elected on First Vote

- 6.5 If there is more than one nomination, the Councillors *in attendance* at the meeting must vote for one of the candidates.
- 6.6 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

- 6.7 In the event that:
- 6.7.1 there are three or more candidates;
  - 6.7.2 no candidate receives the votes of an *absolute majority* of Councillors; and
  - 6.7.3 it is not resolved to conduct a new election at a later date and time,
  - 6.7.4 the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors *in attendance* at the meeting must then vote for one of the remaining candidates.
- 6.8 If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected.
- 6.9 For the purposes of sub-rules 6.7 and 6.8 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.:
- 6.10 If a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- 6.10.1 each candidate who has an equal number of votes with another candidate or candidates will draw one lot;
  - 6.10.2 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; and
  - 6.10.3 as many identical items 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 items, and the Councillor who draws the item 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*

6.11 In the event of two 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.

6.12 If:

6.12.1 it is resolved to conduct a new election at a later date and time a new election will take place on the date and time resolved upon. In that event the provisions of this Rule 6 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; or

6.12.2 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 further votes are taken neither candidate receives 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.

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

Any election for:

7.1 any office of Deputy Mayor; or

7.2 Chair of a *Delegated Committee*

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

7.3 *Chief Executive Officer* is a reference to the *Mayor*; and

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

**8. Appointment of Acting Mayor**

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

8.1.1 the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or

8.1.2 the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or

8.1.3 the office of Mayor is vacant.

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

8.2.1 resolving that a specified Councillor be so appointed; or

8.2.2 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter,

at its discretion.

## Part C – Meetings Procedure

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

### Division 1 – Notices of Meetings and Delivery of Agendas

#### 9. Dates and Times of Meetings Fixed by *Council*

Subject to Rule 11, *Council* must from time to time fix the date, time and place of all *Council meetings*.

#### 10. 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.

The *Chief Executive Officer*, after consultation with the *Mayor*, in the case of an administrative matter or an emergency situation, may alter the date, time or location of a *Council meeting* by giving such notice to the Councillors and the public as is practicable.

#### 11. Meetings Not Fixed by *Council* (Unscheduled or Special Meetings)

11.1 The *Mayor* or at least 3 Councillors may by a *written* notice call a *Council meeting*.

11.2 The notice must specify the date and time of the *Council meeting* and the business to be transacted.

11.3 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice.

11.4 Unless all Councillors are *in attendance* and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.

#### 12. Notice of Meeting

12.1 A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with (except in the case of a meeting called under Rule 11), must be delivered or sent electronically to every Councillor for all *Council meetings* at least 48 hours before the meeting.

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

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

12.3.1 for any meeting by giving notice on its website and:

(a) in each of its Customer Service Centres; and/or

- (b) in at least one newspaper generally circulating in the *municipal district*.

### **13. Apologies and absences**

- 13.1 Councillors who are unable to attend a meeting may submit an apology:
  - (a) In writing to the *Chair*, who will advise the meeting: or
  - (b) By seeking another Councillor to submit it at the meeting on their behalf.
- 13.2 An apology submitted to a meeting will be recorded in the minutes.
- 13.3 A Councillor intending to take a leave of absence should submit it in writing to the Mayor.
  - 13.3.1 The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
  - 13.3.2 A leave of absence not included in a Council meeting agenda may still be considered by Council if a written request has been received by the Mayor prior to the meeting.
  - 13.3.3 Council will not unreasonably withhold its approval of a leave of absence request.
- 13.4 A Councillor who has not submitted an apology or had a leave of absence approved who is not in attendance at a Council or Delegated Committee meeting will be recorded as absent.

### **Division 2 – Quorums**

#### **14. Inability to Obtain a Quorum**

- 14.1 The quorum for a *Council meeting* must be at least a majority of the members of the Council.
- 14.2 If after 30 minutes from the scheduled starting time of any *Council meeting*, a quorum cannot be obtained:
  - 14.2.1 the meeting will be deemed to have lapsed;
  - 14.2.2 the *Mayor* must convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
  - 14.2.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

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

- 15.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 14 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

- 15.2 Sub-Rule 15.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.
- 15.2.1 If Council cannot maintain a quorum because of the number of Councillors who have a conflict of interest in a decision in regard to a matter then the Council must consider whether the decision can be made by dealing with the matter in an alternative manner, which may include—
- (a) resolving to split the matter into 2 or more separate parts, so that a quorum can be maintained for each separate part; or
  - (b) making prior decisions on component parts of the matter at a meeting for which a quorum can be maintained, before deciding the overall matter at a meeting for which a quorum can be maintained.
- 15.2.2 If Council is unable to use an alternative manner, the Chief Executive Officer should withdraw the item to determine an appropriate way to manage the matter.

## **16. Adjourned Meetings**

- 16.1 The *Chair* or *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.
- 16.2 Except where a *Council meeting* is adjourned to a time that is later on the same day, 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.
- 16.3 If it is impracticable for the notice given under sub-Rule 16.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.
- 16.4 A *Council meeting* cannot be adjourned for a period exceeding 21 days from the date of the adjournment.
- 16.5 The *agenda* for a *Council meeting* will include notice that a *Council meeting* may have a short break approximately every two hours or at the *Chair's* discretion.

## **17. Cancellation or Postponement of a Meeting**

- 17.1 The *Chief Executive Officer* may, in the case of an administrative matter or emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.

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

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

- 18.1 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.

- 18.2 In doing so, the *Chief Executive Officer* will be guided by the following Order of Business:
- (a) Welcome and Acknowledgement of Country;
  - (b) Apologies;
  - (c) Confirmation of the Minutes of previous meetings;
  - (d) Declarations of Conflicts of Interest;
  - (e) Condolence Motions;
  - (f) Acknowledgement of Awards;
  - (g) Public Submissions and Question Time;
  - (h) Councillor Question Time;
  - (i) Sealing Schedule;
  - (j) Petitions and Joint Letters;
  - (k) Presentation of Reports;
  - (l) Notices of Motion;
  - (m) Reports by Councillor Delegates;
  - (n) Urgent Business;
  - (o) Confidential Matters

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

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

The *Chair*, at their discretion, may change the order of business within "Presentation of Reports" to consider items where there is public interest.

The *Chief Executive Officer* with the consent of the *Chair*, and a Councillor with the leave of *Council*, can at any time after the *agenda* has been distributed remove or add any matter to it and give such notice as is practicable.

#### **20. Urgent Business**

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

20.1 relates to or arises out of a matter which has arisen since distribution of the *agenda*; and

20.2 cannot safely or conveniently be deferred until the next *Council meeting*.

### **Division 4 – Motions and Debate**

#### **21. Councillors May Propose Notices of Motion**

Councillors may ensure that an issue is listed on an *agenda* by lodging a *Notice of Motion*.

#### **22. Notice of Motion**

22.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* by 3pm on the day that is at least seven days prior to the next scheduled *Council meeting* to allow sufficient

time for inclusion of the *notice of motion* in agenda papers for a *Council meeting* and to give each Councillor advance notice of such *notice of motion*.

- 22.2 The *Chief Executive Officer* may reject any *notice of motion* which:
  - 22.2.1 is vague or unclear in intention
  - 22.2.2 it is beyond *Council's* power to pass; or
  - 22.2.3 if passed would result in *Council* otherwise acting invalidly but must:
    - 22.2.4 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
    - 22.2.5 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 22.3 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 22.4 The *Chief Executive Officer* must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 22.5 Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- 22.6 If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 22.7 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.

### **23. Chair's Duty**

Any motion which is determined by the *Chair* to be:

- 23.1 defamatory;
- 23.2 objectionable in language or nature;
- 23.3 vague or unclear in intention;
- 23.4 outside the powers of *Council*; or
- 23.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

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

The procedure for moving any motion or amendment is:

- 24.1 the mover must state the motion without speaking to it;
- 24.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 24.3 if a motion or an amendment is moved and seconded the *Chair* must ask: "Does the mover wish to speak to the motion or amendment?"
- 24.4 after the mover has addressed the meeting, the seconder may address the meeting;
- 24.5 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 24.6 if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

## **25. Right Of Reply**

- 25.1 The mover of a motion, including an amendment, has a right of reply to matters raised during debate.
- 25.2 After the right of reply has been taken but subject to any Councillor exercising their right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

## **26. Moving An Amendment**

- 26.1 Subject to sub-Rule 26.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 26.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 26.3 An amendment must not be the negative of, or substantially contrary to, the motion. If an amendment effectively negates the substance of the motion it is ruled to be an alternative motion and shall only be considered in the event that the motion is lost.

## **27. Who May Propose An Amendment**

- 27.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 27.2 Any one Councillor cannot move more than two amendments in succession.



**28. How Many Amendments May Be Proposed**

- 28.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the *Chair* at any one time.
- 28.2 No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

**29. An Amendment Once Carried**

- 29.1 If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.
- 29.2 The mover of the original motion retains the right of reply to that motion.

**30. Foreshadowing Motions**

- 30.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of the intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 30.2 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.
- 30.3 The *Chief Executive Officer* or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- 30.4 The *Chair* is not obliged to accept foreshadowed motions.

**31. Default to Officer's Recommendation**

- 31.1 In the event that a motion other than the officer recommendation contained in a report is moved and that motion is lost, and no other motion has been foreshadowed, the motion before the meeting will be the officer recommendation.
- 31.2 The officer recommendation will follow the same procedure as set out in Rule 24.

**32. Withdrawal Of Motions**

- 32.1 Before any motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of *Council*.
- 32.2 If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

**33. Separation Of Motions**

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

**34. Chair May Separate Motions or move en bloc**

- 34.1 The *Chair* may decide to put any motion to the vote in several parts.
- 34.2 The *Chair* may allow items to be moved and seconded en bloc, which means putting a group of motions together and taking a single vote to pass the group of motions.

**35. Priority of address**

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

**36. Motions In Writing**

- 36.1 The *Chair* may require that a complex or detailed motion be in writing.
  - 36.1.1 A Councillor wishing to move an alternate motion other than an officer's recommendation, must submit their alternate motion in writing. A Councillor wishing to move an alternate motion must, at the least, read out the proposed changes to the original officer recommendation.
- 36.2 The *Chair* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

**37. Repeating Motion and/or Amendment**

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

**38. Debate Must Be Relevant To The Motion**

- 38.1 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.
- 38.2 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 not speak further in respect of the motion then before the Chair.
- 38.3 A speaker to whom a direction has been given under sub-Rule 38.2 must comply with that direction.

**39. Withdrawal of Remark**

- 39.1 Whenever any Councillor at any *Council meeting* makes use of any expression or remark that is disorderly or capable of being applied offensively to any other Councillor, officer or member of the public, the Councillor may be required by the *Chair* to withdraw the expression or remark and to make a satisfactory apology to the meeting.
- 39.2 The Chair may require a Councillor to withdraw any remark that is defamatory, indecent, abusive or offensive in language or substance.

39.3 A Councillor required to withdraw a remark must do so immediately without qualification or explanation.

**40. Addressing the Meeting**

If the *Chair* so determines:

40.1 any person addressing the *Chair* must refer to the *Chair* as:

40.1.1 Mayor; or

40.1.2 Chair.

40.2 all Councillors, other than the *Mayor*, must be addressed as **Cr .....**(name).

40.3 Officers will be addressed using the officer's first name and surname.

**41. Right to Ask Questions**

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

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

**Division 5 – Procedural Motions**

**42. Procedural Motions**

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

42.2 Procedural motions require a seconder.

42.3 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

**PROCEDURAL MOTIONS TABLE**

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Seconder</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and any amendment postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking;(c)When the motion would have the effect of causing <i>Council</i> 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
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	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 their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

## Division 6 – Rescission Motions

### 43. Notice of Rescission

- 43.1 A Councillor may propose a *notice of rescission* provided:
- 43.1.1 it has been signed and dated by at least two Councillors;
  - 43.1.2 the resolution proposed to be rescinded has not been acted on; and
  - 43.1.3 the *notice of rescission* is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out -
    - (a) the resolution to be rescinded; and
    - (b) the meeting and date when the resolution was carried.

*It should be remembered that a notice of rescission is a form of notice of motion.*

*Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission.*

- 43.2 A resolution will be deemed to have been acted on if:
- 43.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 43.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 43.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 43.3.1 has not been acted on; and
  - 43.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 43.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

### 44. If Lost

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

### 45. If Not Moved

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

**46. May Be Moved by Any Councillor**

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

**Division 7 – Points of Order**

**47. Chair To Decide**

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

The decision of the Chair in respect of a Point of Order will be final and will not be open for discussion.

**48. Chair May Adjourn To Consider**

48.1 The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

48.2 All other questions before the meeting are suspended until the point of order is decided.

**49. Procedure For Point Of Order**

A Councillor raising a point of order must:

49.1 state the point of order; and

49.2 state any section, Rule, paragraph or provision relevant to the point of order before resuming their seat.

**50. Valid Points Of Order**

A point of order may be raised in relation to:

50.1 a motion, which, under Rule 23, or a question which, under Rule 51, should not be accepted by the *Chair*;

50.2 a question of procedure; or

50.3 on the grounds that a **statement** is:

(a) contrary to these Rules;

(b) an act of disorder or conduct in contravention of the Councillor Code of Conduct;

(c) defamatory;

(d) irrelevant to the matter before Council;

(e) an error of fact;

(f) outside Council's power; or

(g) frivolous or vexatious.

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

## **Division 8 – Question Time**

### **51. Public Question Time**

- 51.1 There must be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*.
- 51.2 Sub-Rule 51.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.
- 51.3 Questions submitted to *Council* must be:
- 51.3.1 in *writing*, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and
  - 51.3.2 submitted to Council prior to 4pm on the day of the *Council meeting*.
  - 51.3.3 Members of the public can ask questions on general matters other than those relating to a topic that is on the *agenda*. Questions may be asked of Council and may not be directed to individual Councillors.
- 51.4 The *Chair* or a member of Council staff nominated by the *Chair* may read to those *in attendance* at the meeting a question which has been submitted in accordance with this Rule.
- 51.5 A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 51.5.1 relates to a matter outside the duties, functions and powers of *Council*;
  - 51.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 51.5.3 deals with a subject matter already answered;
  - 51.5.4 is aimed at embarrassing a Councillor or a member of Council staff;
  - 51.5.5 relates to a matter which will be, or is likely to be, considered in a closed meeting;
  - 51.5.6 relates to any matter which *Council* considers would prejudice *Council* or any person.
- 51.6 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- 51.7 A Councillor, through the *Chair*, may ask clarifying questions of a member of the public who has spoken or of officers in respect to issues raised by

the member of the public. The *Chair* has the right to limit the number of clarifying questions asked by Councillors.

- 51.8 Like questions may be grouped together and a single answer provided.
- 51.9 The *Chair* may respond or may nominate an Officer to respond to a question.
- 51.10 An officer may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer will be sent to the person who asked the question and made available on Council's website.
- 51.11 *The Chief Executive Officer* may advise *Council* that the reply to a question should be given in a meeting closed to members of the public. The *Chief Executive Officer* must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

## **52. Councillor Question Time**

- 52.1 There must be a Councillor question time at every *Council meeting* fixed under Rule 9 to enable Councillors to ask questions of officers without notice.
- 52.2 Councillors are encouraged to submit their questions in *writing* prior to 4pm on the day of the *Council meeting* to enable officers appropriate time to prepare a response.
- 52.3 The *Chair* may disallow a question of officers if the *Chair* believes that:
  - (a) the question is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (b) the question is repetitive and deals with a subject matter that has already been answered;
  - (c) the question is aimed at embarrassing an officer or any other person;
  - (d) the question relates to a matter which will be, or is likely to be, considered in a closed meeting;
  - (e) the question relates to a matter beyond the powers or functions of Council.
- 52.4 The *Chair* may call for an officer to respond to any questions raised by Councillors. The officer may take a question on notice. If a Councillor question is taken on notice, a written copy of the response will be sent, as a minimum, to the Councillor who asked the question and the question and the officer response will also be placed on Council's website.

## **Division 9 – Petitions and Joint Letters**

### **53. Petitions and Joint Letters**

- 53.1 A petition or joint letter must be lodged with the Chief Executive Officer at least seven days prior to the Council meeting at which it is to be considered to allow inclusion into the agenda.



- 53.2 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), contain the request of the petitioners or signatories and be signed by at least 5 people.
- 53.3 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 53.4 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 53.5 Every page of a hard copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 53.6 The *Chief Executive Officer* may accept electronic petitions received via online websites if he or she is satisfied that the petition is authentic and from a legitimate website and provided that the electronic petition has been closed and a copy has been forwarded to *Council*.
- 53.7 If a petition or joint letter relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- 53.8 Nothing in this clause shall prevent the *Chief Executive Officer* from determining that a petition or joint letter that does not fully comply this Rule will be submitted to a *Council meeting* for consideration. However, any petition or joint letter that materially does not comply with this Rule will not be accepted by the *Chief Executive Officer*.
- 53.9 Only the wording of the request and the number of signatories will be included in the *agenda* for a *Council meeting*.
- 53.10 If the petition or joint letter relates to any item already on the *agenda* for the *Council meeting* at which the petition or joint letter is submitted, the *Chair* may decide that the Petition or joint letter will be dealt with in conjunction with that agenda item.
- 53.11 If the petition or joint letter relates to:
- (a) a planning matter which is the subject of a public notification process under the *Planning and Environment Act 1987*; or
  - (b) a statutory matter which is the subject of a community engagement process,
- the petition or joint letter will be treated as a joint submission in relation to the planning matter or the statutory matter (as the case may be).
- 53.12 A petition or joint letter may nominate a person to whom a reply must be sent, but if no person is nominated or if it is not obvious who the intended contact person is, *Council* will reply to the first signatory who appears on the petition or joint letter.

## **Division 10 – Voting**

### **54. How Motion Determined**

- 54.1 To determine a motion before a meeting, the *Chair* 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.
- 54.2 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.
- 54.3 For the purpose of determining the result of a vote, a Councillor present at the meeting who does not vote (abstains) is to be taken to have voted against the question.

### **55. Casting Vote**

- 55.1 In the event of a tied vote, the *Chair* must exercise a casting vote, **except** in the case of:
  - 55.1.1 The election of a Mayor or a Deputy Mayor;
  - 55.1.2 A vote to declare the office of Mayor or Deputy Mayor vacant; or
  - 55.1.3 A vote subject to clause 54.2.

### **56. Silence**

Subject to Rule 57, voting must take place in silence.

### **57. Recount**

The *Chair* may direct that a vote be recounted so that the *Chair* may be satisfied of the result.

### **58. How Votes are Cast**

Voting on any matter is by show of hands or such other visible or audible means as the *Chair* determines.

### **59. Procedure For A Division**

- 59.1 Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- 59.2 When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 59.3 When a division is called for, the *Chair* must:
  - 59.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise a hand or otherwise signify their support in a manner recognised by the *Chair*. The Chair must then state, and the Chief Executive Officer or any authorised

officer must record, the names of those Councillors voting in the affirmative; and

59.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise a hand or otherwise signify their opposition in a manner recognised by the *Chair*. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

59.3.3 The *Chair* must then declare the result.

## **60. No Discussion Once Declared**

Once a vote on a question has been taken, no further discussion relating to the question is allowed unless the discussion involves:

60.1 a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or

60.2 foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

## **Division 11 – Minutes**

### **61. Confirmation of Minutes**

61.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:

61.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;

61.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;

61.1.3 if a Councillor indicates opposition to the minutes:

- (a) the item(s) objected to must be specified;
- (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
- (c) the Councillor objecting must move accordingly without speaking to the motion;
- (d) the motion must be seconded;
- (e) the *Chair* must ask:  
"Is the motion opposed?"

- (f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 61.1.3(k);
- (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
- (h) after the mover has addressed the meeting, the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
- (k) the *Chair* must, after all objections have been dealt with, ultimately ask:  
 "The question is that the minutes be confirmed" or  
 "The question is that the minutes, as amended, be confirmed",  
 and then put the question to the vote accordingly;

61.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;

61.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively.

## **62. No Debate on Confirmation Of Minutes**

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

## **63. 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.

## **64. Form and Availability of Minutes**

64.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:

64.1.1 the date, place, time and nature of the meeting;

- 64.1.2 the names of the Councillors *in attendance* and the names of any Councillors who apologised in advance for their non-attendance;
  - 64.1.3 the names of the members of Council staff *in attendance*;
  - 64.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
  - 64.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - 64.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - 64.1.7 the vote cast by each Councillor upon a division and any abstention from voting;
  - 64.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
  - 64.1.9 questions upon notice;
  - 64.1.10 the failure of a quorum;
  - 64.1.11 any adjournment of the meeting and the reasons for that adjournment; and
  - 64.1.12 the time at which meeting procedures were suspended and resumed.
- 64.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 64.2.1 published on *Council's* website; and
  - 64.2.2 available for inspection at *Council's* office during normal business hours.
- 64.3 Nothing in sub-Rule 64.2 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

## **Division 12 – Behaviour**

### **65. Public Addressing the Meeting**

- 65.1 Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.
- 65.2 Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.

- 65.3 A member of the public *in attendance* at a *Council meeting* must not disrupt the meeting.
- 65.4 Members of the public are encouraged to submit their intention to speak in *writing*, on the prescribed form prior to 4pm on the day of the *Council meeting* to enable officers appropriate time to administer the meeting. Notwithstanding, all requests to ask a question or make a comment on a specific agenda item must be received in writing on the prescribed form prior to Council formally considering the item.
- 65.5 A member of the public can speak for three minutes or at a longer time at the discretion of the *Chair*. The *Chair* reserves the right to limit the speaking time to two minutes for a particular item if there are five or more speakers.
- 65.6 The *Chair* may disallow questions or comments if the *Chair* believes that they are repetitive in nature.

**66. Chair May Remove**

- 66.1 The *Chair* may order and cause the removal of any person, who disrupts any meeting or fails to comply with a direction given under sub-Rule 65.2.

*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 the Chair's authority in chairing the meeting.*

- 66.2 The Mayor may direct a Councillor to leave a *Council meeting*, under section 19(1) of the *Local Government Act 2020* if the behaviour of the Councillor is preventing the Council from conducting its business

**67. Chair may adjourn disorderly meeting**

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*, the *Chair* may adjourn the meeting to a later time on the same day or to some later day. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

**68. 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 any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 65.

**Division 13 – Additional Duties**

**69. The Chair's Duties And Discretions**

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

- 69.1 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;

- 69.2 must allow the *Chief Executive Officer* the opportunity to make a statement under Rule 73; and
- 69.3 must call to order any person who is disruptive or unruly during any meeting.

**70. The Chief Executive Officer's duties**

- 70.1 The *Chief Executive Officer*, or delegate, may participate in the meeting to provide support to the *Chair*.
- 70.2 The *Chief Executive Officer* should:
- (a) Immediately advise, to the best of their knowledge, if a proposed resolution or action is contrary to the law;
  - (b) Advise if there are operational, financial or risk implications arising from a proposed resolution;
  - (c) Help clarify the intent of any unclear resolution to facilitate implementation;
  - (d) On request, assist with procedural issues that may arise.

**71. Councillors and members of Delegated Committees duties**

- 71.1 Councillors and members of Delegated Committees contribute to good governance and decision making by:
- (a) Seeking views of community members and reading agenda prior to the meeting;
  - (b) Demonstrating due respect and consideration to community views and the professional / expert advice provided in the agenda papers;
  - (c) Attending meetings and participating in debate and discussion;
  - (d) Demonstrating respect for the role of the Chair and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
  - (e) Being courteous and orderly.

**Division 14 – Suspension of Meeting Procedures**

**72. Suspension of Meeting Procedures**

- 72.1 To expedite the business of a meeting, *Council* may suspend meeting procedures.

*The suspension of meeting procedures should be used to enable full discussion of any issue without the constraints of formal procedure. Its purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.*

- 72.2 The suspension of meeting procedures should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:  
"That meeting procedure be suspended to enable discussion on....."

- 72.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of meeting procedures.
- 72.4 Once the discussion has taken place and before any motions can be put, the resumption of meeting procedures will be necessary. An appropriate motion would be:

"That meeting procedures be resumed."

## **Division 15 – Physical and Remote Attendance**

### **73. Mode of Attendance**

- 73.1 Each notice of meeting must indicate whether the relevant Council meeting is to be conducted:
- 73.1.1 wholly in person;
  - 73.1.2 wholly by electronic means; or
  - 73.1.3 partially in person and partially by electronic means.
- 73.2 The indication in the notice of meeting must be consistent with any Resolution of Council that has expressed a preference for, or otherwise specified, when Council meetings are to be conducted:
- 73.2.1 wholly in person;
  - 73.2.2 wholly by electronic means; or
  - 73.2.3 partially in person and partially by electronic means.
- 73.3 If a Council meeting is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 73.4 Any request made under sub-Rule 73.3 must:
- 73.4.1 be in writing;
  - 73.4.2 be given to the Chief Executive Officer no later than 24 hours prior to the commencement of the relevant Council meeting; and
  - 73.4.3 specify the reasons why the Councillor is unable or does not wish to attend the Council meeting in person.
- 73.5 The Chief Executive Officer must ensure that any request received in accordance with sub-rule 73.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.
- 73.6 Council may approve and must not unreasonably refuse any request.
- 73.7 A Councillor who attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the Council meeting.



- 73.8 Without detracting from anything said in sub-rule 73.7, a Councillor who is attending a meeting by electronic means must be able to:
- 73.8.1 hear the proceedings;
  - 73.8.2 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;
  - 73.8.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and
  - 73.8.4 be heard when they speak.
- 73.9 If the conditions of sub-rule 73.8 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:
- 73.9.1 the Council meeting will nonetheless proceed as long as a quorum is present; and
  - 73.9.2 the relevant Councillor (or Councillors) will be treated as being absent from the Council meeting or that part of the Council meeting
- 73.10 unless the Council meeting has been adjourned in accordance with these Rules.
- 73.11 Nothing in this Rule 73 prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-rule 73.8 even if the Council meeting has already commenced or has continued in their absence.

#### **74. Meetings Conducted Remotely**

If a *Council meeting* is conducted wholly or partially by electronic means, 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 business of the meeting.

#### **Division 16 – Miscellaneous**

#### **75. Meetings to be open to the public unless specified circumstances apply**

- 75.1 *Council meetings* must be open to the public unless the Council considers it necessary to close the meeting to the public because a specified circumstance applies. The circumstances are—
- (a) the meeting is to consider confidential information; or
  - (b) security reasons; or
  - (c) it is necessary to do so to enable the meeting to proceed in an orderly manner.

- 75.2 If the circumstance specified in (b) or (c) applies, the meeting can only be closed to the public if the Council has made arrangements to enable the proceedings of the meeting to be viewed by members of the public as the meeting is being held.
- 75.3 If Council determines that a meeting is to be closed to the public to consider confidential information, the Council must record in the minutes of the meeting that are available for public inspection—
- 75.3.1 the ground or grounds for determining to close the meeting to the public by reference to the grounds specified in the definition of confidential information in section 3(1) of the *Local Government Act 2020*, being;
- (a) Council business information, information that would prejudice the Council's position in commercial negotiations if prematurely released;
  - (b) security information, being information that if released is likely to endanger the security of Council property or the safety of any person;
  - (c) land use planning information, being information that if prematurely released is likely to encourage speculation in land values; Part 1—Preliminary Local Government Act 2020 No. 9 of 2020
  - (d) law enforcement information, being information which if released would be reasonably likely to prejudice the investigation into an alleged breach of the law or the fair trial or hearing of any person;
  - (e) legal privileged information, being information to which legal professional privilege or client legal privilege applies;
  - (f) personal information, being information which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
  - (g) private commercial information, being information provided by a business, commercial or financial undertaking that—
    - (i) relates to trade secrets; or
    - (ii) if released, would unreasonably expose the business, commercial or financial undertaking to disadvantage;
  - (h) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a);
  - (i) internal arbitration information, being information specified in section 145;
  - (j) Councillor Conduct Panel confidential information, being information specified in section 169;
  - (k) information prescribed by the regulations to be confidential information for the purposes of this definition;
  - (l) information that was confidential information for the purposes of section 77 of the Local Government Act 1989;

75.3.2 an explanation of why the specified ground or grounds applied.

**76. Chief Executive Officer statement**

The *Chief Executive Officer* may make a brief statement at a *Council meeting* to correct factual errors or incorrect assertions that arise during the meeting, or to clarify or provide context in respect of any statement made at the Council meeting.

**77. Live streaming and recording**

77.1 *Council meetings* are live streamed except where the meeting is closed to the public, or in the case of technical errors which prevent the meeting from being streamed.

77.2 Archived live streamed recordings of *Council meetings* will be retained and available for public for viewing on Council's website.

77.3 Members of the public will be advised by appropriate venue signage that the meeting is being live streamed and by the *Chair* in the welcome and introduction to the meeting that the cameras will film and record Councillors and some officers at the meeting but care is taken to try and not to film or record images of members of the public.

77.4 Council meetings may also be audio taped by authorised officers of Council for the sole purpose of assisting officers in the preparation of the *minutes*.

**78. Conditions of entry to a Council meeting**

78.1 All persons without City of Port Phillip identification may be requested to sign an attendance register prior to entering the area in which a *Council meeting* is to be, or is being, held.

78.2 Council may, on some or all occasions, conduct bag searches of some or all people attending Council meetings. This is done for security and safety reasons and to ensure that all who attend Council meetings are able to attend and to participate in a safe environment.

78.3 Members of the public cannot directly distribute any item to a Councillor. Any item must firstly be given to a Council officer who will then determine if it is appropriate to distribute the item to some or all of the Councillors.

78.4 Members of the public are permitted silent use of their mobile devices but are not permitted to use mobile devices for recording, talking or any usage that generates noise.

78.5 Members of the public cannot take photos, film or otherwise record proceedings of a *Council meeting* unless permission is granted by the *Chair* of the meeting.

78.6 Unless permitted by the Chair, the following items are prohibited:

- (a) Cameras;
- (b) Posters and signs attached to sticks;

- (c) Offensive material and / or material that unreasonably blocks the view of members of the public or access to the meeting venue; and
- (d) Electronic audio/visual recording devices (unless authorised).

78.7 Council may refuse entry to a member of the public who does not comply with these conditions.

**79. 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).

## Chapter 3 – Meeting Procedure for Delegated Committees

### 1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

- 1.1 all of the provisions of Chapter 2 apply to meetings of the *Delegated Committee*; and
- 1.2 any *reference* in Chapter 2 to:
  - 1.2.1 a *Council meeting* is to be read as a reference to a *Delegated Committee* meeting;
  - 1.2.2 a Councillor is to be read as a reference to a member of the *Delegated Committee*; and
  - 1.2.3 the Mayor is to be read as a reference to the Chair of the *Delegated Committee*.

### 2. Meeting Procedure Can Be Varied

Notwithstanding Rule 1, if *Council* establishes a *Delegated Committee* that is not composed solely of Councillors:

- 2.1 *Council* may; or
- 2.2 the *Delegated Committee* may, with the approval of *Council*

resolve that any or all of the provisions of Chapter 2 are not to apply to a meeting of the *Delegated Committee*, in which case the provision or those provisions will not apply until *Council* resolves, or the *Delegated Committee* with the approval of *Council* resolves, otherwise.

## **Chapter 4 – Meeting Procedure for Community Asset Committees**

### **1. Introduction**

In this Chapter, “Instrument of Delegation” means an instrument of delegation made by the *Chief Executive Officer* under section 47(1)(b) of the *Act*.

### **2. Meeting Procedure**

Unless anything in the instrument of delegation provides otherwise, the conduct of a meeting of a *Community Asset Committee* is in the discretion of the *Community Asset Committee*.

## Chapter 5 – Disclosure of Conflicts of Interest

### 1. Definition

In this Chapter:

- 1.1 “meeting conducted under the auspices of *Council*” means a meeting of the kind described in section 131(1) of the Act, and includes a meeting referred to in Rule 1 of Chapter 6 (whether such a meeting is known as a ‘Councillor Briefing’ or by some other name); and
- 1.2 a member of a *Delegated Committee* includes a Councillor.

### 2. Disclosure of a Conflict of Interest at a Council Meeting

A Councillor who has a conflict of interest in a matter being considered at a *Council meeting* at which the Councillor:

- 2.1 is *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Council meeting* immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 2.2 intends to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:
  - 2.2.1 advising of the conflict of interest;
  - 2.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
  - 2.2.3 detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
    - a) name of the other person;
    - b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
    - c) nature of that other person’s interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those *in attendance* that the Councillor 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.

### **3. 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 the member:

- 3.1 is *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Delegated Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 3.2 intends to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the Delegated Committee meeting commences a written notice:
  - 3.2.1 advising of the conflict of interest;
  - 3.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
  - 3.3.3 detailing, if the nature of the conflict of interest involves a member of a *Delegated Committee's* relationship with or a gift from another person the:
    - (a) name of the other person;
    - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 3.2.4 nature of that other person's interest in the matter,and then immediately before the matter is considered at the meeting announcing to those *in attendance* that the member 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.

### **4. 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 the Councillor:

- 4.1 is *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Community Asset Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 4.2 intends to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:
  - 4.2.1 advising of the conflict of interest;



- 4.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and
  - 4.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
    - (a) name of the other person;
    - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 4.2.4 nature of that other person's interest in the matter,
- and then immediately before the matter is considered at the meeting announcing to those *in attendance* that the Councillor 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.

## **5. Disclosure at a Meeting Conducted Under the Auspices of Council**

A Councillor who has a conflict of interest in a matter being considered by a meeting conducted under the auspices of *Council* at which the Councillor is *in attendance* must:

- 5.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the meeting immediately before the matter is considered;
- 5.2 be absent from any discussion of the matter and indicating whether it is a general conflict of interest or a material conflict of interest; and
- 5.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those *in attendance* at the meeting.

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

6.1 A member of Council staff who, in their capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:

- 6.1.1 Council *meeting*;
- 6.1.2 *Delegated Committee* meeting;
- 6.1.3 *Community Asset Committee* meeting

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

the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

6.2 The *Chief Executive Officer* must ensure that the Report referred to in sub-Rule 6.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

6.3 If the member of Council staff referred to in sub-Rule 6.1 is the *Chief Executive Officer*:

6.3.1 the written notice referred to in sub-Rule 6.1 must be given to the *Mayor*; and

6.3.2 the obligation imposed by sub-Rule 6.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

7.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

7.2 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

8.1 A member of Council staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of Council staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the *Chief Executive Officer* explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest.

8.2 If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

## **9. Retention of Written Notices**

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

## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 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

- 2.1 If the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 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.
- 2.3 Nothing in sub-rule 2.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-rule 2.1 satisfies the definition of “confidential information” contained in section 3(1) of the *Act*.

## Chapter 7 – Use of the Common Seal

### 1. Use of Common Seal

- 1.1 The purpose of this Part is to regulate the use of the Common Seal and to prohibit the unauthorised use of the Common Seal or use of any device resembling the Common Seal.
- 1.2 The Chief Executive Officer must keep the Common Seal in safe custody at all times.
- 1.3 Council's Common Seal must only be used with the authority of Council granted either generally or specifically and every document to which the Common Seal is affixed must be signed jointly by the Mayor and the Chief Executive Officer.
- 1.4 Subject to clause 1.3, the sealing clause shall be:

**THE COMMON SEAL** of Port Phillip City  
Council was hereunto affixed in the  
presence of:

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**Mayor**

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**Chief Executive Officer**

- 1.5 A person must not use the Common Seal or any device resembling the Common Seal without the authority of Council.

# Chapter 8 – Election Period Policy

## Election Period Policy

Policy outcome	<p>Council complies with its legislative requirements under the <i>Local Government Act 2020</i>, and City of Port Phillip Councillors, Council Officers, and the community are aware of what can and cannot be done during the election period.</p> <p>Councillors and Council Officers act in an accountable, transparent, and lawful way during the election period.</p> <p>External candidates for election are expected to comply with the obligations of this policy where they apply.</p> <p>Council meets the strategic directions detailed in the Council Plan 2021-31, particularly the commitment to be a well-governed Port Phillip.</p>
Responsible area	Governance and Organisational Performance
Version	Version 2.0
Date adopted	1 November 2023
Planned review date	August 2027

### 1. Scope

- 1.1. The Election Period Policy provides a framework for decisions prohibited by the Council during the election period in accordance with the *Local Government Act 2020* (the Act), and the procedures to be applied by Council during the election period.
- 1.2. This policy applies to all Councillors and Council Officers (Officers) of the City of Port Phillip.
- 1.3. External candidates for election are expected to comply with the obligations of this policy where they apply.

### 2. Election Period

- 2.1 The election period (often referred to as caretaker period) is the period that starts from the last day that nominations to be a candidate for that election can be received and ends at 6pm on Election Day.
- 2.2 During an election period, local government goes into 'caretaker' mode, avoiding actions and decisions which could be seen to be influencing voters or which will have a significant impact on the incoming Council.
- 2.3 The term of office of a Councillor expires at 6am on the day of the general election.

## **2.4 Election Period Notification**

The Chief Executive Officer (CEO) will ensure that all Councillors and Officers are aware of this policy, at least 30 days prior to the commencement of the Election Period.

## **2.5 Election Period Guidelines**

2.5.1 The CEO may issue guidelines to:

- Officers on their role and responsibilities in the implementation of this policy
- Councillors to inform them about the changes to services, processes, and procedures that may impact them in their role during the election period.

## **2.6 Implementation of the Election Period Policy**

2.6.1 The Head of Governance is responsible for:

- the implementation, including monitoring and reporting on the effectiveness of the policy
- providing support and training to Councillors and Officers to promote awareness and compliance with this policy
- working with the Executive Leadership Team and the relevant Managers, to ensure the policy is implemented in accordance with the relevant legislation.

# **3. Decision making during the election period**

3.1 Council, a delegated committee of Council, or a person acting under delegation must not make prohibited or inappropriate decisions during the election period for a general election.

3.2 This does not extend to decisions made prior to the election period, which can be implemented during this time.

## **3.3 Prohibited decisions**

3.3.1 Under section 69 of the Act, Council is prohibited from making any decision during the election period that:

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

- 3.3.2 The Act prohibits any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.
- 3.3.3 Any Council decision made in contravention of 3.3.1(a) and (b) above, is invalid.
- 3.3.4 Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of section 69(4) of the Act, is entitled to compensation from the Council for that loss or damage.

### **3.4 Scheduling consideration of prohibited decisions**

- 3.4.1 The CEO will as far as possible, ensure that prohibited decisions are either:
- considered prior to the commencement of the election period; or
  - deferred where appropriate for determination by the incoming Council; and
  - the order of business for any Council Meeting scheduled during the election period does not include any matters requiring prohibited decisions or matters that could be considered prohibited decisions.

### **3.5 Inappropriate decisions**

- 3.5.1 Inappropriate decisions are defined as meaning:
- a) Decisions that would affect voting in an election
  - b) Decisions that may unreasonably bind an incoming Council and could reasonably be made after the election

### **3.6 Inappropriate decisions that will be avoided**

- 3.6.1 The following inappropriate decisions, whether made by Council, a Delegated Committee or an Officer acting under delegated authority, will be avoided during the election period:
- Acquisition of land
  - Adoption or amendment of the Port Phillip Planning Scheme
  - Adoption or amendment of policies, protocols, strategies, master plans or frameworks
  - Adoption or amendment of the Council Plan
  - Adoption of a revised budget
  - Adoption or amendment of a Local Law
  - Allocation of grants or awards to individuals or organisations
  - Appointing representatives to Council committees
  - Disposal of land or assets
  - Endorsing submissions to government or public bodies
  - Employment matters pertaining to the CEO

- Entering into a contract or entrepreneurial agreement exceeding the prescribed amount
- Entering into agreements (excluding an Enterprise Agreement), deeds or leases
- Naming or re-naming of roads, reserves or features
- Reviewing of programs or service provision
- Any other decision that the CEO considers should be made outside of the election period.

### **3.7 Election Period Statement in Reports**

- 3.7.1 All reports to Council and Delegated Committees will be assessed by the CEO, in accordance with the Act and this policy. If approved for inclusion in the meeting agenda, each report will include a statement declaring that it could not reasonably result in a prohibited or inappropriate decision.

### **3.8 Considerations for Officers with delegated authority**

- 3.8.1 Most Council decisions are made via formal delegation to Officers. Any decision of a delegated Officer is deemed to be a decision of Council. The same limitations will apply to them during the election period.
- 3.8.2 Before making any decisions under delegated authority during the election period, Officers should consider the following:
- whether the decision is prohibited under the definitions detailed in 3.3 of this policy
  - whether the decision is an inappropriate decision as detailed under 3.5 and 3.6 of this policy
  - the urgency of the issue (that is, can it be delayed until after the election period?)
  - the possibility of financial repercussions if it is deferred
  - whether the decision is likely to influence voters or be controversial
  - if the decision is in the best interests of Council.

### **3.9 Council and Committee meetings**

The following protocols will apply for Council and Committee meetings during the election period.

#### **3.9.1 Council and Committee Meeting Agendas**

- 3.9.1.1 The standard agenda for any Council meeting to be held during the election period will be modified so that the following items will not be considered:
- Petitions and joint letters
  - Public question time
  - Councillor question time
  - Notices of Motion



- Reports by Councillor delegates

3.9.1.2 Items proposed as urgent business must be assessed in accordance with the Act and this policy. If approved for inclusion in the meeting agenda, items of urgent business must also include an election period statement that they could not reasonably result in a prohibited or inappropriate decision.

### **3.9.2 Audio and Video Recordings of Council and Delegated Committees**

3.9.2.1 Agenda papers, minutes, and live streaming for Council and Delegated Committee Meetings will continue to be delivered during the election period.

3.9.2.2 Recordings of Council and Delegated Committee Meetings will not be made available on Council's website until after the election period has ended.

### **3.10 Council Advisory, Reference Committees and Working Groups**

3.10.1 With the exception of the Audit and Risk Committee, the operation of Council Advisory, Reference Committees and Working Groups shall be suspended upon the commencement of the election period ahead of a general Council election.

### **3.11 Councillor appointments to external committees**

3.11.1 Where a Councillor has been appointed to an external committee or board it is expected that they will attend meetings of the committee or board during the election period. However, the Councillor may attend only in their role as a Councillor. A Councillor must not attend an external committee or board meeting, where they are a Councillor representative, in their capacity as a candidate. A Councillor must be mindful of their obligations under this election period policy, and not conduct any electoral campaigning activities at the meeting.

### **3.12 Councillor Briefings**

3.12.1 Weekly Councillor Briefings are a forum for information sharing and providing direction on services, strategy, and policy. As Councillor Briefings may address decisions likely to come before Council, they will not be held during the election period.

## **4. Publishing and Communications**

### **4.1 Electoral Offences**

#### **4.1.1 Printing and publication of electoral material**

A person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, electoral material unless the name and address of the person who authorised the electoral material is clearly displayed on its face.

Penalty:

In the case of a natural person, 10 penalty units;

In the case of a body corporate, 50 penalty units.

#### **4.1.2 Misleading or deceptive matter**

A person must not print, publish or distribute; or cause, permit or authorise to be printed, published or distributed any matter or thing that the person knows, or should reasonably be expected to know, is likely to mislead or deceive a voter in relation to the casting of the vote of the voter.

Penalty:

In the case of a natural person, 60 penalty units or imprisonment for 6 months;  
In the case of a body corporate, 300 penalty units.

#### **4.1.3 Author to be identified**

A person must not during the election period print, publish or distribute; or cause, permit or authorise to be printed, published or distributed a newspaper, circular or pamphlet containing an article, report, letter or other matter containing electoral matter unless the author's name and address are set out at the end of the article, report, letter or other matter, or if only part of the article, report, letter or other matter appears in any issue of a newspaper, circular or pamphlet at the end of that part.

Penalty:

In the case of a natural person, 10 penalty units;  
In the case of a body corporate, 50 penalty units.

4.1.4 The CEO should review all publications produced and distributed by the Council during the election period to confirm that the publication complies with the Act in circumstances where the publication contains electoral matter, i.e., any matter that is "intended or likely to affect voting in an election".

4.1.5 Without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on the election, a candidate in the election, or an issue submitted to, or otherwise before, the voters in connection with the election.

4.1.6 This is to be broadly interpreted to refer to documents that are produced for communicating with the community and will include, amongst other things:

- Council newsletters and other circulars (hardcopy and/or electronic)
- Advertisements and notices
- Media releases and responses to media enquiries
- Leaflets, brochures, pamphlets, handbills, flyers, magazines, books and stickers
- Mail outs to multiple addresses
- New website material and Social media content
- Material to publicise a function or event
- Notices or posters placed on Council controlled property, including walls, noticeboards, and electronic noticeboards and screens

- 4.1.7 Documents that were published prior to the commencement of the election period, or that are required to be published in accordance with any Act or regulation, are exempted from the requirements of this Policy.

## **4.2 Process for review of publications**

- 4.2.1 Officers will vet all publications before they are recommended to be confirmed by the CEO as suitable for printing, publishing or distributing during the election period.
- 4.2.2 The below wording will be used to ensure compliance with the Act when publishing material:

*Authorised by the Chief Executive Officer of the City of Port Phillip, 99A Carlisle Street St Kilda*

- 4.2.3 a record of all publications confirmed by the CEO will kept via Council's records management system.

## **4.3 Information about the Election**

Council may provide information, education and publicity designed only to promote public participation in the electoral processes.

## **4.4 DiverCity newsletter**

DiverCity newsletter will not be published or distributed during the election period.

## **4.5 Annual Report**

The Act requires the annual report to be submitted to the Minister for Local Government. The Act also requires Council to consider the annual report at a Council meeting prior to Election Day. The annual report will be published during the election period and will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual councillors. At the CEO's discretion, the information within the annual report may be restricted to what is required by the Act. The annual report does not require certification by the CEO however any publication of an extract or summary of the Annual Report will require certification.

During the election period the Annual Report will not contain a Foreword from the Mayor.

## **4.6 Council and Delegated Committee Meetings**

Public notice of Council meetings and Delegated Committee meetings, and agenda papers and minutes of Council and Delegated Committee meetings do not require review by the CEO unless they are printed or published for a wider distribution than normal.

#### **4.7 City of Port Phillip websites**

During the election period Councillor profile pages will be limited to names, contact details, date elected and membership of committees. There will be no photographs, biographies or policy statements.

New content can only be added to the website, or content updated, if the content complies with the Act and where necessary has been confirmed by the CEO.

Website content will be reviewed prior to the election period commencing and any prohibited information will be redacted or removed by the beginning of the election period.

#### **4.8 Media**

The CEO must sign-off on all media releases and media responses.

Media releases and media responses must not refer to Councillors or any candidate and must not comment on an issue likely to be an election issue.

Media enquiries will be channelled through the CEO who will determine who the appropriate spokesperson will be. The CEO will be the spokesperson of the Council where the issue relates to electoral matters including issues before the voters.

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

#### **4.9 Social Media**

Any publication of comments or new content on social media sites (that are managed by Council) must be confirmed by the CEO during the election period. Where it is necessary to identify a spokesperson for comment on Council's social media channels, the CEO will determine the spokesperson and certify commentary.

At the commencement of the election period, Council will advise social media subscribers that comments containing electoral matter will be deleted.

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.

Information published prior to Election Period on Council's social media and website is not subject to CEO certification.

## **5. Consultation and Engagement**

**5.1 Community consultation** involves inviting stakeholders (individuals, groups, organisations or the public generally) to a public consultation process to receive feedback on a project, issue or policy. Some topics of community consultation may have the potential to be an election issue therefore no community consultation will take place during the election period.

**5.2 Public consultation** associated with activities and decisions which are the subject of statutory processes can be expected to continue through the election period to ensure Council does not breach its statutory obligations, for example:

- Consultations involving Council staff, Councillors and interested persons regarding applications under the *Planning and Environment Act 1987*; and
- Consultation required in accordance with the *Local Government Act 2020*

Discussions at these meetings are not to involve election issues or significant community consultation on major developments, strategy or policy issues.

- 5.3** Where community engagement has occurred prior to the election period but the report has not yet proceeded to a Council or Delegated Committee meeting, results of the consultation will also not be provided to a meeting until the election period has concluded, unless required to meet Council's statutory obligations.
- 5.4** Council currently has seventeen **Community Reference Committees (Advisory Committees)**, these committees may discuss potential election issues so consequently these committees will not meet during the election period. Meetings of forums and groups which have been established by Council, and not captured as Advisory Committees, should also not be held during the election period.

## 6. Events and Functions

- 6.1 During the election period, Councillors may continue to attend functions and events. Council run events will be scheduled to ensure only those essential to the operations of Council, that must be held at a specific time which coincides with the election (i.e., the Seniors Festival) are run during the Election Period.
- 6.2 Where events and functions are held, candidates who are not currently Councillors will be invited to attend if appropriate to the type of event or function.
- 6.3 No election material or active campaigning is to be conducted at Council sponsored events or displayed in/on or distributed at any Council building.
- 6.4 Guest lists to any Council organised event or function during the election period must be approved by the CEO.
- 6.5 For those functions referred to in clause 6.1, the CEO (or his delegate) will fulfil any speaking requirements. The Mayor and Councillors must not give speeches or addresses at Council organised or sponsored events and functions during the election period.

### 6.6 Public events and functions staged by external bodies

- 6.6.1 Where a Councillor has received an invitation to an external event and has determined to accept the invitation, the Councillor must make a clear separation between attendance in their role as a Councillor, or attendance in their role as a candidate.
- 6.6.2 A Councillor may not attend an event in their capacity as both Councillor and candidate. If a Councillor gives a speech or public comment at an external event or function, they must make it clear that they are speaking as a candidate.

## 7. Council resources

7.1 Council resources, including offices, support staff, hospitality services, equipment and stationery must be used exclusively for normal Council business during the election period and must not be used in connection with an election.

7.2 Councillors must not use Council resources in connection with any activities associated with any election campaign.

### 7.3 Councillor Requests

Councillors can only make operational requests through the CRM system covering issues such as but not limited to roads, footpaths, trees, waste management and general amenity. Such requests will be administered as community requests.

All information requests received during the election period will be handled in accordance with 8.6 of this policy.

### 7.4 Council Data

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

### 7.5 Councillor Correspondence

7.5.1 A key part of the role of a Councillor is to engage with members of the community, including responding to any correspondence received. While this must continue during the election period, it is important that Officers are not perceived as providing Councillors any undue advantage over other candidates.

7.5.2 During the election period, any responses prepared by the administration in response to correspondence addressed to a Councillor will therefore be signed by the CEO or relevant General Manager or Manager as appropriate. Such responses will acknowledge the Officer is responding due to limitations imposed upon Councillors during the election period.

### 7.6 Use of Council equipment and services by Councillors

7.6.1 Councillors may continue to use any Council equipment and services provided to them to facilitate their performance of normal Council duties.

7.6.2 The following is expressly prohibited:

- Photocopying, scanning, or printing for election campaigning purposes by Councillors or Officers on Council equipment, or the preparation or production of any materials associated with a candidate's election campaign by an Officer
- Council logos, letterheads, or other Council branding used for, or linked in any way to a candidate's election campaign
- The use of Council issued mobile phones, computers, or email addresses for election campaigning purposes

- The use of Council's webpages or social media pages, including the use of links, for any activity related to election campaigning
  - The Distribution or displaying of election material in or on Council facilities, libraries or community noticeboards.
  - The use of photographs and images paid for by Council or taken by Officers are not to be used in electoral material for any Candidate. This includes images of Councillors, Council events and Council owned or maintained infrastructure.
- 7.7 Councillors may use the title "Councillor" in their election material, as they continue to hold office during the election period.
- 7.8 Councillors should ensure that any election publication using the title "Councillor" clearly indicates that it is their own material and does not represent Council.
- 7.9 Councillors should also be mindful to manage any perceived conflicts even where a direct expense isn't incurred, this may include for example:
- Where campaign-related emails are received in a Council email account, send any responses from a private email and encourage the correspondent to use that account in future.
  - Where campaign-related calls are received on a Council device, provide and encourage the caller to use a non-council number for future calls.
- 7.10 For purposes other than usual community use, Council facilities may only be booked during the election period by persons, groups or organisations who are neutral with regard to the participating political parties or candidate campaigns.
- 7.11 If a Council facility is hired for the purposes of discussing issues before voters (e.g., a community candidate forum), then every candidate of the municipality, or of that Ward, must be invited to equally participate in the event.
- 7.12 The obligation to ensure fair and equitable participation for all candidates remains with the Hirer. Any feedback, enquiries or complaints on the running of the event will be directed to the Hirer.

### **7.13 Councillors' Entitlement to Reimbursement**

The organisation will continue to provide support to Councillors with respect to their normal day to day council business. Out-of-pocket expenses paid by Councillors during the election period for necessary costs incurred in the performance of their duties, which do not relate to any election campaign, will be reimbursed as normal.

## **8. Council Information**

- 8.1 All election candidates have rights to information relevant to their campaigns from Council, subject to legislative constraints, such as:
- Sections 123 of the Act, which prohibits Councillor-candidates from misusing or inappropriately making use of their positions
  - The *Privacy and Data Protection Act 2014*.

- 8.2 Councillors will continue to receive information necessary to fulfill their existing roles during the election period. Beyond this, only information that is readily available to any member of the public will be provided to any candidate.
- 8.3 Access to historical briefing and workshop papers will be suspended for the duration of the election period. Council Meeting papers may continue to be accessed by anyone via the Council website.
- 8.4 No information other than what would normally be made available to any member of the public on request will be provided to a Councillor or a candidate. Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns.
- 8.5 Council staff when carrying out their duties must not offer comment to members of the public about any Councillors or candidates, except to provide contact details for current Councillors.
- 8.6 Information requests – process, record, and access
  - 8.6.1 Council may receive requests for information from candidates during the election period. All candidates must have access to the same level of information wherever possible.
  - 8.6.2 To enable this to occur, an Information Request Register will be maintained by the Governance unit during the election period. This Register will be a publicly available document and will record requests by all candidates who seek information relating to electoral matters or general enquiries, and the responses provided by Officers.
  - 8.6.3 Any candidate may, upon request, obtain a copy of the Information Request Register by emailing the Governance unit.
  - 8.6.4 The CEO, or their delegate, may at their discretion automatically circulate to all candidates a response to any request recorded in the Information Request Register.

## **8.7 Council Officers**

Council Officers are prohibited from undertaking any tasks connected directly or indirectly with an election campaign and must avoid actions that may create a perception that they are assisting Councillors with their campaign.

## **9. Electoral Signage and Electioneering**

- 9.1 Councillors, like other candidates, must comply with Council's Electoral Signage and Electioneering Guidelines. The guidelines include the City of Port Phillip Planning Scheme Requirements and Community Amenity Local Law requirements for what sort of signs can be displayed during an election, and rules for when candidates or their supporters are electioneering in public places. The guidelines are included at the end of this Policy.



## 10. Equity in assistance to candidates

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

### 10.1 Candidate assistance and advice

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.

### 10.2 Officers as a candidate

10.2.1 An Officer is not prevented from nominating as a candidate at an election. Upon becoming a candidate in a Port Phillip City Council election, the Officer must:

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

10.3 If elected, immediately resign from their employed position at Council prior to taking the oath or affirmation of office, in accordance with sections 34 and 256 Act.

### 10.4 Election process enquiries

All election process related enquiries from candidates, whether sitting Councillors or not, will be directed to the Victorian Electoral Commission appointed Election Manager or, where the matter is outside the responsibilities of the Election Manager, to the Head of Governance.

## 11. Breaches

11.1 Sections 123 and 124 of the Act prohibit Councillors from intentionally directing or seeking to direct a member of Council staff; or misusing their position to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or to cause, or attempt to cause, detriment to the Council or another person.

11.2 Circumstances involving the misuse of a position by a Councillor or member of a delegated committee include—

- a) making improper use of information acquired as a result of the position the person held or holds; or
- b) disclosing information that is confidential information; or
- c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff; or
- d) exercising or performing, or purporting to exercise or perform, a power, duty or function that the person is not authorised to exercise or perform; or
- e) using public funds or resources in a manner that is improper or unauthorised;  
or

- f) participating in a decision on a matter in which the person has a conflict of interest.

11.3 A breach of section 123 attracts serious penalties, including possible imprisonment. Allegations of breaches of the Local Government Act are independently received and investigated by the Local Government Inspectorate.

#### 11.4 Councillor Code of Conduct

11.4.1 Allegations of breaches of this Policy will be dealt with under the Internal Resolution Procedure of the Code of Conduct. The CEO will take the place of the Mayor in managing complaints received under the Election Period Policy.

11.4.2 Complaints must be directed to the CEO in writing, providing details of the alleged contravention, when it occurred and who it involved. The CEO will assess the information and follow the provisions of the Internal Resolution Procedure of the Code of Conduct including, where necessary, the appointment of an external arbiter.

#### 11.5 Suspension of matters during election period

In accordance with section 173 of the Act, any applications made, or proceedings before a Councillor Conduct Panel or the Victorian Civil and Administrative Tribunal regarding the serious or gross misconduct of a person who is a Councillor, must be suspended during the election period for a general election.

#### 11.6 Breach of policy

Any breach of this policy relating to Officer conduct is to be referred to the CEO.

Alleged breaches relating to all other matters are to be referred to the Local Government Inspectorate at email address [inspectorate@lgi.vic.gov.au](mailto:inspectorate@lgi.vic.gov.au) or phone 1800 469 359.

## 12. Related legislation and documents

*Local Government Act 2020*  
Local Government (Elections) Regulations  
Councillor Code of Conduct  
Community Amenity Local Law requirements  
City of Port Phillip Planning Scheme

## 13. Version History

Version number	Document Set ID (ECM)	Date	Authorised by
1.0	E125582/20	19 August 2020	Adopted by Council
2.0	7594877	1 November 2023	Adopted by Council

# ELECTORAL SIGNAGE

What sort of sign can I display during an election?

## Community Amenity Local Law 2023 requirements for public land and buildings.

### 50. Political Signs

- (1) A person must not affix, erect, install or otherwise display a political sign on Council Land or a building or structure or other thing on Council Land.
- (2) For the purpose of sub-clause (1) a political sign means any sign which displays, promotes or otherwise identifies a political candidate or political party.
- (3) Clause (1) does not apply if the signage is authorised under this or any other law.

## City of Port Phillip Planning Scheme Requirement

*A permit is not required to display a sign with an advertisement area not exceeding five square metres publicising a local political event not held for commercial purposes.*

*The requirements are:*

- *Only one sign can be displayed on the land*
- *The sign must not be animated*
- *The sign must not be internally illuminated*
- *The sign must not be displayed for more than 3 months and must be removed within 14 days of the event*

*A sign publicising a local political event may include information about a candidate for an election.*

*(This section of the Planning Scheme is a mandatory State Government requirement).*

The sign can be displayed on a person's own land or another person's land if permission of the landowner has been granted.

Signs not compliant with these requirements are subject to a Council Planning application.

Electoral advertising cannot be displayed on or in any Council building or Council notice board, or on any Council land, including median strips and footpaths.

Electoral material must follow the requirements of the relevant electoral legislation.

# ELECTIONEERING

When candidates or their supporters are electioneering in public places, they must be aware of the following:

- A candidate / supporter may handout electoral material in a public place, that is, streets and parks within the control of Council, but not within Council buildings or premises.
- Electoral material must follow the requirements of relevant electoral legislation.
- Council will not require a fee or a permit if a candidate / supporter is standing at a small table with a sign (note planning requirements) handing out electoral material.
- Persons distributing electoral material must be aware of public safety and community amenity, and must leave a minimum 1.2 metre wide pedestrian access on the footpath.
- Any tables and signs placed in front of Council, commercial or residential properties must be located with the agreement of the adjoining owner / occupier.
- No electoral material is to be posted on Council property including buildings, noticeboards, land, fences, street lighting posts, etc.,. Any such postings will be subjected to a Local Laws Enforcement investigation.

Any electoral material posted on private property without the authority of the owner may be referred to the Police for investigation.



## City of Port Phillip

99a Carlisle Street, St Kilda, VIC 3182

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### Language assistance

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普通話 9679 9858   Русский 9679 9813   Other 9679 9814



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