



**Moreland**  
City Council

# **Governance Rules**

## **Draft for Consultation – May 2020**



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## COMMITMENT

Good governance, integrity and accountability are central to the Local Government Act 2020 (the Act), to underpin local government democracy, accountability, conduct and enable our community to hold the Council to account. Council is committed to embedding the principles of good governance throughout its decision making, corporate governance and democratic governance by establishing and adhering to the Governance Rules established. The principles of good governance incorporate the principles outlined in the Act, including the overarching governance principles as well as the public transparency, community engagement, strategic planning, service performance and financial management principles.

Council decision making will be founded on good governance and conducted with transparency. The process by which decisions will be made is transparent and clearly articulated in these Governance Rules for the scrutiny of our community and accountability of Councillors and Council officers. Council recognises that accountability, integrity and transparency are of fundamental importance to our community and are critical for enhancing good governance.

Council seeks to apply good governance in order to:

- Engage our community in decision making;
- Achieve the best outcomes for the Moreland community, including future generations;
- Ensure the transparency of Council decisions, actions and information;
- Ensure the ongoing financial viability of Council;
- Increase our performance;
- Drive out inefficiencies; and
- Reassure residents that we are spending public monies wisely.

# CHAPTER 1 - INTRODUCTION

## Purpose

These Governance Rules determine the way in which Council will:

- Make decisions:
  - in the best interest of the Moreland community
  - fairly and on the merits of the question
  - in a way that ensures any person whose rights will be directly affected by a decision will be entitled to communicate their views and have their interests considered.
- Elect its Mayor and Deputy Mayor;
- Conduct meetings of Council and Delegated Committees;
- Give notice of meetings and record and make available meeting records (minutes and livestreamed meetings);
- Be informed in its decision making through community engagement, advisory committees and Councillor areas of responsibility, and Council officer reports;
- Require the disclosure and management of conflicts of interest.

The Governance rules also include:

- Rules for the conduct of Council and Councillors during Election Periods, through the Election Period Policy;
- An overview of alignment of the Governance Rules within Council's democratic and corporate governance; and
- Provisions for use of the common seal.

## Principles

Council must, in the performance of its role, give effect to the overarching governance principles outlined in the Local Government Act 2020. These principles are:

- (a) Council decisions are to be made and actions taken in accordance with the relevant law;
- (b) Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- (c) The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- (d) The municipal community is to be engaged in strategic planning and strategic decision making;
- (e) Innovation and continuous improvement is to be pursued;
- (f) Collaboration with other Councils and Governments and statutory bodies is to be sought;
- (g) The ongoing financial viability of the Council is to be ensured;
- (h) Regional, state and national plans and policies are to be taken into account in strategic planning and decision making;
- (i) The transparency of Council decisions, actions and information is to be ensured.

In giving effect to the overarching governance principles, Council must take into account the following supporting principles —

- (a) the community engagement principles;
- (b) the public transparency principles;
- (c) the strategic planning principles;
- (d) the financial management principles;
- (e) the service performance principles.

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## CHAPTER 2 - CONTEXT

### 2.1 Affected Persons Rights and Interests

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

This includes but is not limited to the rights outlined in the *Charter of Human Rights and Responsibilities Act 2006* and *Council's Human Rights Policy*.

The opportunity provided for a person whose rights have been affected to contribute their views will be documented in any relevant report put before the Council.

A Council officer making a decision under delegation that affects the rights of a person will record in writing the opportunity provided to the person to have their views considered.

Section 60(2) Local Government Act 2020

The Governance Rules must provide for a Council to— (a) consider and make decisions on any matter being considered by the Council fairly and on the merits;

and (b) institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.

### 2.2 Moreland's Governance Setting



## 2.3 Context

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

- Community Engagement Policy
- Public Transparency Policy;
- Conflict of Interest Guide for Councillors and Staff;
- Good Governance Framework;
- Conflicts of interest Guidance;
- Councillor Code of Conduct;
- Employee Code of Conduct;
- Other relevant policies.

Each numbered section or sub-section is a rule or sub-rule.

Guidance and Overview Notes within these rules are intended to be explanatory and included for guidance and do not form part of these Governance Rules. They will be monitored and updated to reflect changes to legislation or to assist interpretation and understanding.

## 2.4 Definitions

(1) In these Governance Rules:

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

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

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

(a) the Council; or

(b) a Delegated Committee; or

(c) a member of Council staff who has been delegated a power, duty or function of the Council;

that is not a Delegated Committee;

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

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

**Authorised Officer** has the same meaning as in the Act;

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

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

**Chief Executive Officer** means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office;

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



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

**Council** means Moreland City Council;

**Councillor** means a Councillor of Council;

**Council Meeting** means a meeting of the Council convened in accordance with these Governance Rules and includes an Ordinary Meeting, a Special Meeting and a Meeting Designated for Planning and Related Matters;

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

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

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

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

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

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

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

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

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

**Meeting** means an Ordinary Meeting, Special Meeting, Meeting Designated for Planning and Related Matters or a Delegated Committee Meeting;

**Meeting Designated for Planning and Related Matters** means an Ordinary Council Meeting that is held only for the consideration of planning and related matters;

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

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

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

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

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

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

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

**Procedural Motion** means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure;

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

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

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

(2) Definitions provided by the Act

The following definitions provided by the Act are applied to [these Governance Rules](#):

**Audit and Risk Committee** means the Audit and Risk Committee established by a Council under section 53;

**Confidential information** means the following information—

- (a) Council business information, being 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;
- (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;

**Electoral Material** means an advertisement, handbill, pamphlet or notice that contains electoral matter but does not include an advertisement in a newspaper that is only announcing the holding of a meeting.

**Electoral Matter** means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election.

**Nomination Day** means the last day on which nominations to be a candidate at a council election may be received in accordance with the Act and the regulations.

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## CHAPTER 3 – MEETING PROCEDURE

### 3.1 Purpose of Council meetings

- (1) Council holds Ordinary Meetings and, when required, Special Meetings to conduct the business of Council.
- (2) Council is committed to transparency in decision making and, in accordance with the Local Government Act 2020, Council and Delegated Committee Meetings are open to the public and the community are able to attend. Meetings will only be closed to members of the public if:
  - (a) the meeting is to consider confidential information; or
  - (b) a meeting is required to be closed for security reasons; or
  - (c) it is necessary to enable the meeting to proceed in an orderly manner.
- (3) *If a meeting is closed to the public for the reasons outlined in sub-rule 2(b) or 2(c), the meeting will continue to be livestreamed. In the event a livestream is not available, the meeting will be adjourned.*
- (4) For the avoidance of doubt, if a meeting is open to the public and the livestream is not available, a meeting that has not commenced will proceed as scheduled and a meeting that has commenced will continue.

### 3.2 Meeting Roles

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#### Overview Notes:

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

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

The Chairperson is an independent leader of meetings and generally does not participate in debate or move or second motions.

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

Each member of the meeting has an obligation to participate in good decision-making through their preparation and contribution to the meeting.

Specific duties and discretions of the Chairperson are outlined throughout these Governance Rules.

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#### 3.2.1 Chairperson and Members

- (1) The Chairperson, Councillors and members of Delegated Committees will ensure good decision-making by endeavouring to ensure:
  - (a) Decision making is transparent to members and observers;
  - (b) Meeting members have sufficient information to make good decisions;

- (c) Every member is supported to contribute to decisions;
- (d) Any person whose rights are affected has their interests considered;
- (e) Debate and discussion is focussed on the issues at hand;
- (f) Meetings are conducted in an orderly manner.

### **3.2.2 Mayor to take the Chair**

- (1) The Mayor must take the Chair at all Council Meetings at which the Mayor is present.
- (2) If the Mayor is not in attendance at a Council Meeting, the Deputy Mayor (if one has been elected) must take the Chair.
- (3) If the Mayor and any Deputy Mayor are not in attendance at a Council Meeting, Council must appoint one of the Councillors as a temporary Chairperson.

### **3.2.3 Delegated Committee Chairperson**

- (1) At the Meeting at which Council appoints the members of a delegated committee it must also appoint a Chairperson. If Council is appointing a single member as a result of a vacancy, or additional members, there is no change to the appointed Chairperson unless resolved by Council.
- (2) For the avoidance of doubt, sub-rule (1) does not intend to limit the powers of the Mayor provided in the Act.

### **3.2.4 The Chairperson's Duties and Discretions**

In addition to the specific duties and discretions provided in these Governance Rules, the Chairperson:

- (1) must not accept any Motion, question or statement which is:
  - (a) vague or ambiguous;
  - (b) defamatory, malicious, abusive or objectionable in language or substance; or
  - (c) outside the powers of Council;
- (2) must allow the Chief Executive Officer the opportunity to correct factual errors or incorrect assertions that arise during the meeting;
- (3) must call a person to order if their behaviour is disruptive and interferes with the conduct of the business of Council;
- (4) may direct that a vote be recounted to be certain of the result;
- (5) must decide on all points of order in accordance with Rule 3.11 and
- (6) May adjourn a disorderly meeting.
- (7) Subject to sub-rules 1(1) and (2), the Chairperson may determine to close a meeting to the public to maintain security and order, if the circumstances prevent seeking a Council resolution in accordance with Rule 14.

### **3.2.5 Chief Executive Officer**

- (1) The Chief Executive Officer, or delegate, may participate in the meeting to provide support to the Chairperson and advice to the meeting.
- (2) The Chief Executive Officer:
  - (a) Must immediately advise if a proposed resolution or action is, to their knowledge, contrary to legislation or Council Policy;

- (b) May advise if there are administrative or operational implications arising from a proposed resolution;
- (c) May assist to clarify the intent of any unclear motion to facilitate implementation of a resolution;
- (d) On request, assist with procedural issues that may arise.

### **3.2.6 Councillors and members of Delegated Committees**

- (1) Councillors and members of Delegated Committees contribute to good governance and decision making by:
  - (a) Seeking views of community members and reading agenda papers 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 Chairperson and the rights of other Councillors or members of Delegated Committees to contribute to the decision-making;
  - (e) Being courteous and orderly.

### **3.2.7 Community**

- (1) Council meetings are decision making forums for the Council that are open to the community to attend and/or view proceedings.
- (2) Community members may only participate in Council meetings in accordance with sub-rule 3.7.
- (3) Community members are encouraged to participate in Council's engagement processes.
- (4) Community members may seek to inform individual Councillors of their views by contacting them directly in advance of Meetings.

### **3.2.8 Apologies and absences**

- (1) Councillors and members of Delegated Committees who are unable to attend a meeting may submit an apology:
  - (a) In writing to the Chairperson, who will advise the meeting; or
  - (b) By seeking another Councillor or member of the Delegated Committee to submit it at the meeting on their behalf.
- (2) An apology submitted to a meeting will be recorded in the minutes.
- (3) A Councillor intending to take a leave of absence must submit it in writing to the Mayor.
- (4) The Mayor will seek to have any leave of absence request received included in the agenda of the next Council meeting.
- (5) 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.
- (6) Council will not unreasonably withhold its approval of a leave of absence request.
- (7) 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.

**Section 35 (1) (e) of the Act** provides a Councillor ceases to hold office if they are absent from Council meetings for a period of 4 consecutive months without leave obtained from the Council.



### **3.3 Notice of Meetings and availability of agenda**

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#### **Overview Notes:**

*Council Meetings are held regularly to conduct the ongoing business of the Council and Special Meetings are held from time to time for specific purposes.*

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

*An Agenda for each Council Meeting must be provided to Councillors in advance so that they can prepare adequately for the Council Meeting. The Agenda contains the order of business and the professional advice of the organisation, with a recommendation for Council to consider.*

*The Agenda is made available to the public via Council's website and at Customer Service Centres.*

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#### **3.3.1 Date, time and place of Council Meetings**

- (1) At or before the last Meeting each year, Council must fix the date, time and place of all Council Meetings and any Delegated Committee Meetings for the following calendar year.
- (2) Council may resolve a Delegated Committee will set its own schedule of meetings.
- (3) When setting the dates of Ordinary Meetings, Council may set Meetings Designated for Planning and Related Matters.
- (4) Council by resolution, or the Chief Executive Officer, may change the date, time and place of, or cancel, any Ordinary Meeting which has been fixed, or schedule an additional ordinary meeting and must provide notice of the change to the public.

#### **3.3.2 Special Meetings**

- (1) Council may by resolution call a Special Meeting.
- (2) The Mayor, or three Councillors may by written notice to the Chief Executive Officer call a Special Meeting.
- (3) The Chief Executive Officer, following consultation with the Mayor, may call a Special Meeting.
- (4) A written notice to call a Special Meeting must:
  - (a) Specify the business to be transacted;
  - (b) be delivered to the Chief Executive Officer or Delegate in sufficient time to enable notice to be given in accordance with Rule 3.3.5.
- (5) The Chief Executive Officer must determine the time and date for the Special meeting giving consideration to:
  - (a) the urgency of the business to be transacted
  - (b) the availability of Councillors
  - (c) a reasonable notice period for persons whose rights or interests may be impacted by the business to be transacted
- (6) The Chief Executive Officer must arrange for notice of the meeting on Council's website, and other mediums that will maximise the opportunity for the community to be notified in accordance with 3.3.5.

- (7) Any resolution of Council to call a Special Meeting must specify the date and time of the Special Meeting and the business to be transacted. The date and time of the Special Meeting must not be prior to 6pm on the day following the Council Meeting at which the resolution was made.
- (8) The Chief Executive Officer must call a Special Meeting to elect a Mayor following a Council election declaration, in accordance with the Act.
- (9) The Special Council Meeting for the election of a Mayor following an election may also consider the role of Deputy Mayor and any other matters as determined by the Chief Executive Officer.
- (10) Only the business specified in the Council resolution, or written notice, may be considered at a Special Meeting, unless Council, by unanimous resolution determines to admit another matter.

### 3.3.3 Call of the Council

- (1) If a quorum cannot be achieved or maintained repeatedly due to the absence of Councillors, the Chief Executive officer may require all Councillors to attend a Call of the Council meeting.
- (2) Notice of the Meeting must be given in accordance with sub-rule 3.3.5(2);
- (3) The Agenda for a Call of the Council meeting must only contain matters that have been unable to be transacted because a quorum has not been achieved or maintained.
- (4) If a Councillor does not attend within 30 minutes after the time fixed for a call of the Council meeting, or remain at the meeting for the business to be conducted, the Chief Executive Officer must, following the meeting, seek a reason in writing from the Councillor(s) not in attendance.
- (5) If, after considering the reason provided by the Councillor for the absence in accordance with sub-rule (2), the Chief Executive Officer, in consultation with the Mayor, or Deputy Mayor if the reason has been provided by the Mayor, does not consider the Councillor has provided a reasonable excuse for not attending, the Chief Executive officer must recommend to the Council to make an application for an internal arbitration process in accordance with section 143 of the Act.

#### **Section 143 of the Act provides:**

##### *Application for an internal arbitration process*

- (1) An arbiter may hear an application that alleges misconduct by a Councillor.
- (2) An application for an internal arbitration process to make a finding of misconduct against a Councillor may be made by—
  - (a) the Council following a resolution of the Council; or
  - (b) a Councillor or a group of Councillors.

### 3.3.4 Notice of Meetings

- (1) A schedule of Council Meetings must be prepared and published on Council's website and in ways that ensures it is available to a broad section of the community at least once each year and with such greater frequency as the Chief Executive Officer determines. The schedule of Council meetings must also be available from Council's Customer Service Centres.
- (2) A notice of a Meeting, that is not a Special Meeting, incorporating or accompanied by an Agenda of the business to be dealt with, must be sent electronically to every Councillor for all Council Meetings, at least six days before the Meeting. A period of less than six days may be justified if exceptional circumstances exist.
- (3) An Agenda for each Council Meeting, that is not a Special Meeting, will be made available on Council's website no less than 48 hours before the Council Meeting.

- (4) An Agenda for a Special Meeting must be made available electronically to every Councillor at least 48 hours before the meeting. A period of less than 48 hours may be justified if exceptional circumstances exist.
- (5) An Agenda for a Special Council Meeting will be made available on Council's website no less than 24 hours before the Council meeting.
- (6) The extraordinary circumstances that mean Council is unable to give the notice described in this Rule must be recorded in the minutes of the relevant Special meeting.
- (7) Notice of a Special Meeting must be published on Council's website and in ways that will be available to a broad section of the community as soon as practicable after the time and date of the meeting has been determined.
- (8) If a Special Meeting is called to consider a matter that directly affects the rights of any person(s), every endeavour must be made to notify that person(s).

### **3.4 Quorum**

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#### **Overview Notes:**

*No business can be transacted at a Council Meeting or a Delegated Committee Meeting unless a majority of the Councillors or members of the Delegated Committee (as the case may be) is present (quorum). If there is no quorum at the commencement of a Meeting or if a quorum cannot be maintained during a Meeting, the Meeting is to be adjourned to another date and/or time.*

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- (1) Meetings must commence within 30 minutes of the scheduled starting time.
- (2) If, after 30 minutes from the scheduled starting time of any Meeting or adjournment, a quorum cannot be obtained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Delegate, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (3) If, during any Meeting or any adjournment of the Meeting, a quorum cannot be maintained, the Chairperson, or if the Chairperson is not present, those Councillors present or, if there are no Councillors present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, a Delegate, may adjourn the Meeting for a period not exceeding seven days from the date of the adjournment.
- (4) The Chairperson may defer an item of business in respect of which there is, or is likely to be, a disclosure of a conflict of interest by one or more Councillors that will cause a quorum to be lost and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting.
- (5) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, Council will:
  - (a) Determine the matter will be considered in separate parts, if a quorum can be maintained for each separate part; or
  - (b) Determine to make decisions on separate parts of the matter at a meeting where quorum can be maintained, before making a decision on the whole matter.
- (6) If a quorum cannot be achieved or maintained due to the declaration of conflicts of interests by the majority of Councillors, and the matter cannot be separated into component parts or prior decisions made, Council will delegate the decision to be made:
  - (a) By the Chief Executive Officer; or

- (b) By a Delegated Committee, established for the purpose of determining the matter, comprised of all the Councillors who have not disclosed a conflict of interest and any other person(s) the Council considers suitable.
- (7) A decision made under delegation due to Council not being able to achieve or maintain a quorum will be reported to the next Council Meeting.

*For example, if Council is proposing to include items in the budget that would give rise to conflicts of interest to more than half of the number of Councillors, Council may consider whether to include these items in the budget as individual decisions prior to adopting the budget as a whole.*

### 3.4.1 Notice of adjourned Council Meeting

- (1) The Chief Executive Officer must provide written notice, including by electronic means, to each Councillor of any Council Meeting adjourned to another date or time.
- (2) Where it is not practicable because time does not permit notice in accordance with clause 4(6) to occur, then, provided every reasonable attempt is made to contact each Councillor either verbally, or by some other means, it will be sufficient.
- (3) Notice of an adjournment to another date or time due to another date or time must be published on Council's website as soon as practical.

#### Quorum Calculation

**Section 61(4) of the Act** provides that a quorum at a Meeting must be at least a majority of the Councillors or members of the Delegated Committee.

Number of Councillors/Committee Members	Number required for Quorum
11	6
10	6
9	5
8	5
7	4

## 3.5 Election of the Mayor

### Overview Notes:

The role and functions of the Mayor are provided in the Act. The holder of this significant office is the Chairperson at Council Meetings, the leader of the Councillors, acts as the principal spokesperson for Council and carries out civic and ceremonial duties. The Mayor also leads engagement with the community on the development of the Council Plan.

This section describes how the Mayor, a Deputy Mayor and any Acting Mayor are to be elected.

- (1) The Chief Executive Officer must determine the most appropriate time and date for the election of the Mayor, except that the election of the Mayor must be held in accordance with any provisions contained in the Act.
- (2) At the meeting to elect the Mayor, Council must first resolve if the term of the Mayor is to be 1 or 2 years.

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

#### Section 25 - Election of Mayor

##### 25 Election of Mayor

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

#### Section 26 – When is a Mayor to be elected

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

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

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

### 3.5.1 Role and Election of Deputy Mayor

- (1) At the Council Meeting at which the Mayor is to be elected, the Council may resolve to establish the position of Deputy Mayor and elect a Councillor to the position of Deputy Mayor.
- (2) If the Mayor is not in attendance at a Council Meeting the Deputy Mayor must take the Chair in accordance with Clause **Error! Reference source not found.**
- (3) The term of a Deputy Mayor is identical to the term of the Mayor as resolved by Council.
- (4) If the Council has not resolved to establish the position of Deputy Mayor, other than, sub-rule 3.5.1, any provisions in this these Governance Rules relating to the Deputy Mayor have no effect.

#### **Section 21 of the Act - Role and powers of the Deputy Mayor**

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

- (a) the Mayor is unable for any reason to attend a Council meeting or part of a Council meeting; or
- (b) the Mayor is incapable of performing the duties of the office of Mayor for any reason, including illness; or
- (c) the office of Mayor is vacant.

### 3.5.2 Method of Voting

The election of the Mayor must be carried out by a show of hands.

### 3.5.3 Determining the Election of Mayor / Deputy Mayor

- (1) The Chief Executive Officer will preside during the election of the Mayor.
- (2) The Chief Executive Officer must invite nominations for the office of Mayor and confirm acceptance of the nomination with the nominee.
- (3) Where in an election for the Mayor:
  - (a) only one candidate has been nominated, that candidate must be declared elected;
  - (b) two candidates have been nominated, a vote must be taken and the candidate who receives the an absolute majority of votes must be declared elected;
  - (c) two candidates have been nominated and no candidate receives an absolute majority of votes, a second vote will be conducted.
  - (d) where, after a second vote, where two candidates have been nominated and no candidate receives an absolute majority of votes the Chief Executive Officer will seek the meeting to resolve to conduct a new election at a meeting to be held at 6 pm the following day;
  - (e) more than two candidates have been nominated and no candidate receives an absolute majority:
    - (i) the candidate with the fewest number of votes cast must be eliminated;
    - (ii) the names of the remaining candidates must be put to the vote again; and
    - (iii) the procedure in (i) and (ii) above must be continued until there remain only two candidates, at which point the candidate to be declared elected is to be determined by the procedures outlined in sub-rules (b) to (d).



- (f) in the event of more than two candidates having an equality of votes and one of them having to be declared a defeated candidate (where there are three or more candidates with equal votes); the Chief Executive Officer will conduct a vote for one candidate to be defeated;
- (g) In the event the vote for a candidate to be defeated results in an equality of votes the defeated candidate will be determined by lot.
- (h) if a lot is conducted, the Chief Executive Officer will conduct of the lot and the following provisions will apply:
  - (i) each candidate will draw one lot;
  - (ii) 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 Councillor surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names;
  - (iii) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle;
  - (iv) the word 'Defeated' shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word 'Defeated' written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates).

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

#### **3.5.4 Ceremonial Mayoral Speech**

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

### **3.6 Business of Meetings**

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#### **Overview Notes:**

*The business to be transacted at a Council Meeting is contained in the agenda provided to Councillors and available to the public on Council's website. The Chief Executive Officer oversees preparation of the agenda and determines the content and order of business to facilitate open, efficient and effective processes of government. The role of the Mayor includes providing advice to the Chief Executive Officer when the Chief Executive Officer is setting the agenda for Council meetings. Council can admit an item of urgent business if it has arisen after distribution of the agenda and cannot be reasonably deferred to the next meeting.*

*This section also provides time limits for meetings. A Council Meeting must not continue after 3 hours unless a majority of Councillors agree, when up to 2 extensions of 30 minutes can be made.*

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#### **3.6.1 Business at Meetings**

- (1) The Chief Executive Officer may include any matter on the Agenda for a Council Meeting which he or she thinks should be considered at the Meeting to which the Agenda relates.
- (2) No business can be dealt with at an Ordinary Meeting unless it is:
- (3) Contained on the Agenda; or
- (4) Admitted as Urgent Business in accordance with Clause 32.

### **3.6.2 Order of business for Ordinary Council Meetings**

- (1) The order of business must be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government. Generally the order of business of any Ordinary Meeting will be as follows:
  - (a) Welcome;
  - (b) Apologies/Leaves of Absence;
  - (c) Disclosures of conflicts of interest; (Rule 5.3)
  - (d) Confirmation of Minutes of previous Meetings; (Rule 3.12.3)
  - (e) Petitions; (Rule 3.7.3)
  - (f) Public question time; (Rule 3.7.1)
  - (g) Council reports;
  - (h) Notices of motion; (Rule 3.10.14)
  - (i) Notices of rescission; (Rule 3.10.15)
  - (j) Foreshadowed Items;
  - (k) Urgent business; (Rule 3.6.5);
  - (l) Confidential business.

### **3.6.3 Order of business for Meetings Designated for Planning and Related Matters**

- (1) The order of business of any Meeting Designated for Planning and Related Matters will be as follows:
  - (a) Welcome;
  - (b) Apologies;
  - (c) Disclosures of conflicts of interest; (Rule 5.3)
  - (d) Confirmation of Minutes of previous Meetings; (Rule 3.12.3)
  - (e) Council reports;
  - (f) Urgent business (Rule 3.6.5);
  - (g) Confidential business.

### **3.6.4 Change to order of business**

- (1) Once an Agenda has been sent to Councillors, the order of business for that Meeting may be altered with the Agreement of Council.
- (2) If the agreement of Council is not achieved, the order of business may be altered by a resolution of Council.
- (3) The Chief Executive Officer, following consultation with the Mayor, may withdraw a report included in the Agenda, if special circumstance exist that mean Council consideration of the report would not be appropriate.

### **3.6.5 Urgent Business**

- (1) If the Agenda for a Meeting makes provision for urgent business, business cannot be admitted as Urgent Business other than by resolution of Council and only then if:
  - (a) It relates to or arises out of a matter which has arisen since distribution of the Agenda; and

- (b) Deferring the item until the next Meeting will mean a decision on the item will not have any effect on the matter; or
  - (c) The item involves a matter of urgency as determined by the Chief Executive Officer; and
  - (d) It cannot be addressed through an operational service request process.
- (2) In addition to the requirements in sub-clause rule (1), where Urgent Business is to be admitted to a Meeting Designated for Planning and Related Matters, the urgent business must relate to a planning matter.
  - (3) A Councillor proposing a matter be admitted as urgent business must lodge it in writing to the Chief Executive Officer no later than 3 pm on the day of the Meeting.
  - (4) The Chief Executive Officer will advise the Mayor of any matter he or she determines appropriate for Council to consider admitting as urgent business.

#### **3.6.6 Time Limits for Meetings**

- (1) A Meeting must not continue after three hours from the time it commences unless a majority of Councillors present vote in favour of its extension in accordance with this Clause.
- (2) Extensions of a Meeting will be in block periods of 30 minutes.
- (3) After the initial 30 minute extension the Meeting must not continue unless a majority of Councillors present vote in favour of a further extension.
- (4) A Meeting may only be continued for a maximum of two 30 minute extensions.
- (5) In the absence of such extensions as provided for in sub-clauses (1), (2) and (3), or in the event there is further business to be transacted at the completion of two extensions, the Meeting must stand adjourned to 6 pm on the following day. In that event, the provisions of Rule 3.4.1 apply in respect of any Councillor not in attendance at the adjourned Meeting.
- (6) Notwithstanding sub-clause (5), the Chairperson may seek the Agreement of Council not to adjourn the Meeting to the following day, if the Chairperson reasonably believes the remaining business will take less than 10 minutes to transact.

#### **3.6.7 Chairperson may temporarily adjourn a Meeting exceeding two hours**

- (1) The Chairperson may adjourn a Meeting for a 10 minute break, at an appropriate point in proceedings after two hours has elapsed.
- (2) Notwithstanding sub-rule (1), the Chairperson may seek the Agreement of Council not to adjourn the Meeting if the Chairperson reasonably believes the remaining business of the Meeting will take less than 30 minutes to transact.

## **3.7 Community Questions and Submissions**

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### **Overview Notes:**

As outlined in the purpose of these Governance Rules, Council Meetings are held for Council to make its decisions. Members of the public do not have a right to address Council, however provisions are made for Council to respond to questions from the community, and in particular circumstances, such as Meetings Designated for Planning and Related Matters, for the public to make submissions to Council.

At each Ordinary Meeting there is an opportunity for members of the public to ask questions of the Council or make a statement to Council. Assistance will be available for any community member seeking or requiring support to write or ask their question(s).

At a Meeting Designated for Planning and Related Matters, objectors to, and proponents of, planning permit applications, are provided a three minute opportunity to address Council in relation to items being considered at that meeting.

Petitioning is a long-established process for members of the community to demonstrate community support for a request or views on a matter, and for that request or view to be presented directly to Council.

All petitions will be managed in accordance with a petitions procedure established by the Chief Executive Officer.

This Section sets out the procedures to be followed to submit a question, statement or petition, the circumstances under which a question or petition may be disallowed and the process for addressing and responding to the question or petition at or after the meeting.

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### **3.7.1 Questions of Council and Community Statements**

- (1) Members of the public may only address a Council Meeting in accordance with the provisions of these Governance Rules.
- (2) Unless Council resolves differently, there must be a time provided for questions of Council and Community Statements at every Ordinary Meeting not designated for Planning and Related Matters to enable members of the public to submit questions to Council.
- (3) Sub-clause (2) 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.
- (4) There will be no Questions of Council and Community Statements during a local government election period.
- (5) The time provided for questions of Council and community statements will not exceed 30 minutes in duration, unless by resolution of Council, in which case, the time may be extended for one period of up to 30 minutes.
- (6) Priority will be given to questions and statements that relate to matters listed in the Agenda. If time allows, questions about items other than those listed on the Agenda will be considered.
- (7) A maximum of two questions or statements, in any combination, is allowed per person. If a person has submitted two questions or statements, the second or statement question may, at the discretion of the Chairperson:
  - (a) be deferred until all other persons who have submitted questions have asked their first question; and/or
  - (b) not be asked or permitted if the time allotted for public question time has expired.
- (8) A person submitting two questions or statements, in any combination, may identify the priority order of the questions or statements.

### 3.7.2 Questions of Council

- (1) Persons wishing to ask a question will be required to submit their question on the Questions of Council form available on Council's website by 12 noon on the day of the Ordinary Council meeting.
- (2) Questions can be submitted by:
  - (a) The online form at [www.moreland.vic.gov.au](http://www.moreland.vic.gov.au)
  - (b) Email to: [governance@moreland.vic.gov.au](mailto:governance@moreland.vic.gov.au); or
  - (c) Mail to: Locked Bag 10, Moreland Vic. 3058; or
  - (d) In person at the Coburg Civic Centre Customer Service Centre at 90 Bell Street Coburg.
- (3) Assistance will be available for any community member seeking or requiring support to write their question(s).
- (4) Public Question Time will not be extended for the purposes of responding to questions that are not related to matters listed on the Agenda.
- (5) For the purposes of sub-rule (4) questions that are submitted in writing but not asked, will be taken On Notice.
- (6) A maximum of three questions will be heard on any one subject. Council will then proceed to the next subject, returning to the previous subject if time allows.
- (7) Persons submitting questions must be present in the public gallery either personally or by representative unless the question has been submitted in accordance with a procedure developed at Rule 3.7.2.
- (8) When invited by the Chairperson, the person submitting the question:
  - (a) Must state their name and suburb;
  - (b) May ask their question, without any preamble or background.
- (9) The Chairperson shall elect to answer the question themselves or nominate one appropriate Councillor to answer each question. Prior to responding, the Chairperson may seek contextual information from the person submitting the question.
- (10) If the Chairperson, or a Councillor nominated by the Chairperson, is unable to answer the question, the Chairperson may refer the question to the Chief Executive Officer, who may refer it to a member of Council staff.
- (11) No discussion of a question or answer will be allowed, other than for the purposes of clarification by a Councillor.
- (12) A question or community statement may be disallowed by the Chairperson if the Chairperson determines it:
  - (a) relates to a matter outside the duties, functions or powers of Council;
  - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (c) may lead to a breach of Council's obligation to comply with its statutory obligations;
  - (d) deals with subject matter already answered; or
  - (e) deals with a matter that should be, or has been, considered as a confidential matter.
- (13) No questions directed at an individual Councillor or member of Council staff will be allowed.

- (14) The Chairperson may decide to take a question On Notice. Questions On Notice will be actioned by the relevant Director and a written response forwarded to the person and made available to Councillors. The status of On Notice items will be reported to the next practicable Council Meeting.
- (15) A question will only be dealt with as an On Notice question if the entire question has been provided in writing and contact details for a response are provided. An incomplete question or a question where not contact details are provided will not be prioritised to be included before the time allowed for public question time and community statements has elapsed.

### **3.7.3 Community statements**

- (1) A member of the community may make a statement, for up to 2 minutes, in relation to a matter listed in the Agenda for a meeting.
- (2) Community Statements may not be directed at individual Councillors or members of Council staff.
- (3) Community Statements will not receive a response.
- (4) The Chairperson may cease a community statement he or she deems inappropriate.
- (5) A member of the public wishing to make a community statement may indicate their intention in advance of the meeting or by completing a form on arrival at the meeting.

### **3.7.4 Questions and community statements from members of the public not in attendance and at meetings conducted electronically**

- (1) Council may, by resolution, determine that the Chief Executive Officer must develop a procedure that enables the submission of questions and statements by community members who are not in attendance but are viewing the livestream to be admitted to the meeting.
- (2) A procedure developed at sub-rule (1) must include the person asking the question being visible to the meeting when asking a question.
- (3) A procedure developed in accordance with sub-rule (1) must give consideration to:
  - (a) Accessibility;
  - (b) Community members in attendance at the Meeting; and
  - (c) Relevance of the question to an item on the agenda for the Meeting.
- (4) If a Council meeting is being conducted electronically or online, in accordance with any Guidelines issued for the Minister for Local Government, provision will be made for questions and community statement to be made via video call, if the question or intent to make a submission is lodged in accordance with rules 3.7.2 or 3.7.3 as is applicable.

### **3.7.5 Petitions and joint letters**

- (1) Every petition submitted to Council must:
  - (a) be in legible and in permanent writing;
  - (b) state clearly on each page the matter and the action sought of Council;
  - (c) not be derogatory, defamatory or objectionable in language or nature;
  - (d) not relate to matters outside the powers of Council; and
  - (e) include the names, addresses and original signatures of at least 10 people;
  - (f) clearly indicate the name and contact details of the lead petitioner.
- (2) Where a petition has been signed by less than 10 people, it will be treated as a joint letter and forwarded directly to the appropriate member of Council staff for action as an operational item.



- (3) Any Councillor presenting a petition is responsible for ensuring that:
- (a) he or she is familiar with the contents and purpose of the petition; and
  - (b) the petition is not derogatory, defamatory or objectionable in language or nature.
- (4) Unless sub-clauses (5) or (6) apply, the only Motions that may be considered by Council on any petition are:
- (a) that the petition be received; and
  - (b) that the petition be referred to the Chief Executive Officer or relevant Director for consideration and response; or
  - (c) that the petition be referred to the Chief Executive Officer or relevant Director for a report to a future Council Meeting.
- (5) If a petition relates to an item listed on the Agenda for the Meeting at which it is submitted, the petition may be dealt with in conjunction with the item.
- (6) If a petition relates to:
- (a) a 'planning matter' which is the subject of a public exhibition or notification process under the Planning and Environment Act 1987); or
  - (b) a matter which Council has determined will be the subject of a Hearing Committee and is the subject of a public submissions process in accordance with Council's Community Engagement Policy,
- the petition will be treated as a joint submission in relation to the 'planning matter' or the 'statutory matter' (as the case may be).
- (7) An online or electronic petition may be submitted to a Council meeting.
- (8) The number of signatories to an online or electronic petition will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council meeting.
- (9) An online or electronic petition will not be presented to a Council meeting if it contains signatures that are false or misleading.

### **3.7.6 Submissions to Meetings designated for Planning and related matters**

At a Meeting Designated for Planning and Related Matters:

- (1) the Chairperson may invite a Council Officer to provide an overview of a planning matter to be considered; and
- (2) an objector to, or proponent of, a Planning Permit Application or Planning Scheme Amendment included in the Agenda, may be invited by the Chairperson to address the Meeting for no more than three minutes.

### **3.7.7 Public addressing the Meeting**

- (1) 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 Chairperson whenever called on to do so.
- (2) Council may suspend standing orders in accordance with Rule 3.10.13, to hear from a community member or representative of an organisation, on matters of significance to the Council, only if prior arrangements have been made by written request to the Mayor or Chief Executive Officer.

There are a number of statutory powers conferred on Council which required a public submissions process under section 223 of the Local Government Act 1989- these include adoption of key Council documents (such as the Council Plan and Budget), sale of land, closure of roads and making of local laws. The public submissions process requires Council to give public notice of the proposal and to consider (and hear if requested) submissions received before making a final decision on the matter.

In 2020 these 'statutory' consultations are no longer provided for in the Act. Instead, Council's Community Engagement Policy has been developed to ensure effective engagement with those community members who may be impacted by a Council decision. There is a transitional period where both Acts apply with regard to submissions.

Council has established processes for seeking community input and may adopt policies, protocols or guidelines to ensure opportunities exist for this input, beyond formal consultation processes.

### **3.7.8 Display of placards and posters**

- (1) Subject to sub-rules (2) and (3), a person can display any placards or posters in the Council Chamber or in any building where a Meeting is being, or is about to be, held, including outside the entrance to the building.
- (2) A placard or poster must not:
  - (a) display any offensive, indecent, insulting or objectionable item or words; or
  - (b) obstruct the entrance to the Council Chamber or a building where a Meeting is being, or is about to be, held;
  - (c) obstruct the view or physically impede any person; or
  - (d) be attached to a pole, stick or other object.
- (3) The Chairperson may order and cause the removal of any placard or poster that is deemed by the Chairperson to be objectionable, disrespectful or otherwise inappropriate.

### **3.7.9 Prohibited items**

- (1) A person may not bring in the Council Chamber or any building where a Meeting is being, or is about to be, held, including outside the entrance to the building any item that may affect the safety or security of the meeting.
- (2) Items considered to affect the safety or security of a meeting include:
  - (a) A bag or object larger than a small backpack;
  - (b) Devices that amplify sound;
  - (c) Any other object identified by a Councillor, Council officer or security officer.
- (3) The Chairperson may cause the removal of any object or material that is deemed by the Chairperson to be objectionable or disrespectful.

### **3.7.10 Chairperson May Remove**

- (1) Members of the public present at a Council Meeting must not interject during the Council Meeting.
- (2) If a person, other than a Councillor, interjects or gesticulating offensively during the Council Meeting, the Mayor may direct:
  - (a) the person to stop interjecting or gesticulating offensively; and
  - (b) if the person continues to interject or gesticulate offensively, the removal of the person.

- (3) In causing a person's removal under sub-rule (2)(b), or the removal of an object or material under sub-rule (3), the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of security or Victoria Police to remove the person, object or material.

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

### **3.7.11 Chairperson may adjourn disorderly Meeting**

- (1) The Chairperson may call a break in a Meeting for either a short time, or to resume another day if:
- (a) the behaviour at the Council table or in the gallery is significantly disrupting the Meeting; or
  - (b) as provided in Rule 3.6.7 when a Meeting has been in progress for longer than 2 hours.
- (2) The break referred to in sub-clause (1) is an adjournment.
- (3) If the Chairperson calls a Meeting to resume on another day, the provisions of 3.4.1 apply.

## **3.8 Voting**

### **Overview Notes:**

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

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

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

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

### **3.8.1 How a matter is determined**

- (1) To determine a Motion at a Meeting, the Chairperson must first call for those in favour of the Motion and then those opposed to the Motion, and must then declare the result to the Meeting.
- (2) In the event of a tied vote, the Chairperson must, unless the Act provides otherwise, exercise a second vote.

### **3.8.2 Voting must be seen**

- (1) Voting may be by any method resolved by Council that enables those in attendance and those watching a livestream broadcast to clearly see which way a Council has voted at the time a vote is taken.
- (2) In the absence of a Council resolving an alternative method, voting on any matter is by show of hands.

### 3.8.3 When a division is permitted

- (1) A division may be requested by any Councillor on any vote.
- (2) The request must be made to the Chairperson either immediately prior to, or immediately after, the vote has been taken, and may not be made after the Meeting has moved to the next item of business.
- (3) When a division is called for the Chairperson must:
  - (a) first ask each Councillor wishing to vote in favour of the Motion to clearly indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (b) then ask each Councillor wishing to vote against the Motion to clearly indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes;
  - (c) next, ask each Councillor abstaining from voting to clearly indicate their vote and the Chairperson must then state the names of those Councillors to be recorded in the Minutes; and
  - (d) finally, declare the result of the division.
- (4) Where a division is requested after the original vote has been taken, the Motion is decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division must be disregarded.

### 3.8.4 No discussion once a vote has been declared

- (1) Once a vote on a Motion has been declared carried or lost by the Chairperson, no further discussion relating to the Motion is allowed, unless the discussion:
  - (a) involves a Councillor requesting that his or her opposition to a resolution be recorded in the Minutes or calling for a division in accordance with Rule 8.3; or
  - (b) is a Councillor foreshadowing a notice of rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

#### **Section 61 of the Act provides:**

...

(5) A question before a Council meeting is to be determined as follows—

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

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

The effect of (e) above is that a Councillor who abstains from voting is taken to have voted against a matter.

### 3.9 Addressing the meeting

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#### Overview Notes:

This section provides for how the meeting is to be addressed by Councillors and Members of Council Staff.

Members of the Community may only address a meeting in accordance with Rule 3.7.

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#### 3.9.1 Councillor allowed to speak uninterrupted

A Councillor who has the floor must not be interrupted unless called to order, or given notice by the Chairperson his speaking time has elapsed or is about to elapse, when he or she must sit down and remain silent until the Councillor raising the Point of Order has been heard and the Point of Order dealt with.

#### 3.9.2 Addressing the Meeting

- (1) If the Chairperson so determines:
  - (a) any person addressing the Chairperson must refer to the Chairperson as:
  - (b) Mayor; or
  - (c) Chairperson,as the case may be;
- (d) all Councillors, other than the Mayor, must be addressed as Cr.....(surname); and
- (e) all Council staff, must be addressed by their official title.
- (2) Except for the Chairperson and Chief Executive Officer, any person who addresses the Meeting must stand and direct all remarks through the Chairperson.
- (3) The Chairperson may permit any Councillor or person to remain seated while addressing the Chairperson.

### 3.10 Motions and Debate

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#### Overview Notes:

This Section describes the procedure for introducing a motion or amendment, the rules of debate, foreshadowing a motion or amendment and the duty of the Chairperson in relation to accepting motions and amendments. It also describes the process for a Councillor lodging a notice of motion for consideration and/or indicating they will raise a matter at the next Council Meeting (foreshadowing items).

A Councillor may move any motion related to an item included in the agenda. In the interest of transparency and informed decision making, motions or amendments should not introduce new matters to a debate that have not been the subject of the report or background of the motion being considered by Council. Motions are required to be submitted in writing so they can be displayed to the meeting.

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

*This Section also describes the circumstances and procedures under which a Council decision can be rescinded or altered. It also prescribes a procedure under which a Council policy can be altered or varied.*

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### **3.10.1 Moving a motion**

The procedure for moving any Motion is:

- (1) The mover must outline the Motion without speaking in support of it;
- (2) The Motion must be seconded by a Councillor other than the mover;
- (3) If a Motion is not seconded, the Motion lapses for want of a seconder;
- (4) If there is a seconder, then the Chairperson must call on the mover to speak to the Motion;
- (5) After the mover has spoken to the Motion, the seconder may also speak to the Motion;
- (6) After the seconder has spoken to the Motion (or after the mover has spoken to the Motion if the seconder does not speak to the Motion), the Chairperson must call on any Councillor who wishes to speak against the Motion, then on any Councillor who wishes to speak for the Motion, after waiting until all Councillors wishing to speak to the Motion have spoken; and
- (7) If no Councillor wishes to speak against the Motion, then the Chairperson may put the Motion or call on any other Member to speak.

*A resolution must be capable of standing alone, that is, a person reading the decision of Council in the minutes will be able to understand what Council is seeking to achieve without reference to other sources. This usually means it should include specifics about the action to be taken, the timing of the action to be taken, the details of any organisation that will be contacted or directly affected by the decision.*

### **3.10.2 Chairperson's duty**

Any Motion which:

- (1) is defamatory; or
  - (2) is objectionable in language or nature; or
  - (3) is vague or unclear in its intention; or
  - (4) is outside the powers of Council; or
  - (5) is not relevant to an item of business on the Agenda and has not been admitted as urgent business;  
or
  - (6) purports to be an amendment but is not
- must not be accepted by the Chairperson.

### **3.10.3 Right of reply**

- (1) The mover of a Motion, which has not been amended, may, once debate has been exhausted, exercise a right of reply to matters raised during debate.
- (2) No new matters may be raised in the right of reply.
- (3) If no Councillor has spoken against a Motion, there will be no right of reply.
- (4) After the right of reply has been exercised, the Motion must immediately be put to the vote without any further discussion or debate.

### **3.10.4 Moving an amendment**

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

- (2) An amendment may be proposed or seconded by any Councillor, except the mover and seconder of the original Motion.
- (3) If a Councillor proposes an amendment and the original mover and seconder of the Motion both indicate their agreement with the amendment, the amended Motion becomes the substantive Motion without debate or vote.
- (4) If a Councillor proposes an amendment to which either the mover or seconder does not agree, the following will apply:
  - (a) the amendment must be moved and seconded;
  - (b) a Councillor may speak on any amendment once, whether or not he or she has spoken to the Motion, but debate must be confined to the terms of the amendment;
  - (c) any number of amendments may be proposed to a Motion, but only one amendment may be accepted by the Chairperson at any one time. No second or subsequent amendment, whether to the Motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with and voted on;
  - (d) if the amendment is carried, the Motion as amended then becomes the Motion before the Meeting (known as the 'substantive Motion'); and
  - (e) the mover of an amendment does not have right of reply.

*If a proposed amendment is ruled to be the negative of, or substantially contrary to, the motion, it should be treated as an alternative motion to be considered only in the event that the motion before the Chair is lost – see Foreshadowing Motions.*

### **3.10.5 Foreshadowing motions**

- (1) At any time during debate a Councillor may foreshadow a Motion so as to inform Council of his or her intention to move a Motion at a later stage in the Meeting, but this does not extend any special right to the foreshadowed Motion.
- (2) A Motion foreshadowed may be prefaced with a statement that, in the event of a particular Motion before the Meeting being resolved in a certain way, a Councillor intends to move an alternative or additional Motion.
- (3) A Motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Meeting.
- (4) The Minutes of the Meeting will not include foreshadowed Motions unless the foreshadowed Motion is subsequently formally moved as a Motion.

### **3.10.6 Withdrawal of motions**

Before any Motion is put to the vote, it may be withdrawn with the Agreement of Council.

### **3.10.7 Separation of motions**

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

### **3.10.8 Motions moved in a block**

The Chairperson may allow like Motions to be moved, or request Councillors to move like items, in a block (*en bloc*), if once passed the Motions will only:



- (a) note actions already taken; or
- (b) will not commit Council to further action, spending or changes to policy.

#### **3.10.9 Motions in writing**

- (1) All Motions, except procedural Motions, must be submitted in writing.
- (2) The Chairperson may adjourn a Meeting while a Motion is being written or may request Council to defer the matter until the Motion has been written, allowing the Meeting to proceed uninterrupted.

#### **3.10.10 Debate must be relevant to the motion**

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

#### **3.10.11 Adequate and sufficient debate**

- (1) Adequate debate is required where a matter is contentious in nature. In such a case, every Councillor should be given an opportunity to participate in the debate.
- (2) A Motion has been sufficiently debated if opposing views (where they exist) have been sufficiently put, not so much the number of those who have spoken but whether all minority opposing views have been put.
- (3) Once the views put are representative of the views of all Councillors or Members of the Delegated Committee, the debate would be regarded as sufficient.

#### **3.10.12 Speaking times**

- (1) Unless a Motion for an extension of speaking time has been carried, the maximum speaking times are:
  - (a) the mover of a Motion or amendment - three minutes;
  - (b) the mover of a Motion when exercising his or her right of reply - two minutes; and
  - (c) any other speaker - three minutes.
- (2) A Motion for an extension of speaking time must be proposed before the initial speaking time, for that speaker, expires.
- (3) A Motion for an extension of speaking time must not be accepted by the Chairperson if another Councillor has commenced speaking.
- (4) Only one extension of speaking time is permitted for each speaker.
- (5) Any extension of speaking time must not be more than two minutes.

#### **3.10.13 Procedural motions**

- (1) Unless otherwise prohibited, and subject to sub-rule (3), a procedural Motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Procedural Motions require a seconder.
- (3) The Chairperson may reject a procedural Motion if he or she believes the Motion on which it is proposed has not been adequately or sufficiently debated.

- (4) Regardless of any other provision in this Local Law, a procedural Motion must be dealt with in accordance with the table at sub-rule **Error! Reference source not found.**
- (5) A Procedural Motion may not be moved or seconded by the Chairperson.
- (6) Unless otherwise provided, debate on a procedural Motion is not permitted and the mover does not have a right of reply.
- (7) Unless otherwise provided, a procedural Motion must not be amended.
- (8) Procedural Motions table:

Motion	Form	Mover/Seconded	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Deferral of a matter (to a future meeting)</b>	'That the debate on this matter be deferred until (insert meeting/date) to allow (purpose of deferral)'...	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of the Mayor/Deputy Mayor; (b) During the election of a Chairperson; or (c) When another Councillor is speaking	Consideration/debate on the motion and/or amendment is postponed to the stated date and the item is re-listed for consideration at the resolved future meeting, where a fresh motion may be put and debated	Debate continues unaffected	Yes
<b>Closure (of debate)</b>	'That the motion now be put'	Any Councillor who has not moved or seconded the original motion or spoken for/against the original motion	During nominations for a Chairperson	Motion or amendment is put to the vote immediately without further debate, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
<b>Laying a motion on the table (pausing debate)</b>	'That the motion be laid on the table'	A Councillor who has not spoken for/against the motion	During the election of the Mayor/Deputy Mayor	Motion not further discussed or voted on until Council resolves to take the question from the table at the same meeting	Debate continues unaffected	No
<b>Take a motion from the table (resume debate on a matter)</b>	'That the motion in relation to xx be taken from the table'	Any Councillor	When no motion is on the table	Debate of the item resumes	Debate of the item remains paused	No
<b>Alter the order of business</b>	'That the item listed at xx on the agenda be considered before/after the item listed as xy'	Any Councillor	(a) At a Meeting to elect the Mayor; or (b) During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the Agenda	No

Motion	Form	Mover/Seconder	When prohibited	Effect if Carried	Effect if Lost	Debate Permitted
<b>Suspension of Standing Orders</b>	'That Standing Orders be suspended to ...' (reason must be provided)	Any Councillor		The rules of the meeting are temporarily suspended for the specific reason given in the motion  No debate or decision on any matter, other than a decision to resume Standing Orders, is permitted	The meeting continues unaffected	No
<b>Resumption of Standing Orders</b>	'That Standing Orders be resumed'	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed	The meeting cannot continue	No
<b>Adjourn the meeting</b>	'That the meeting be adjourned for xx minutes/until xx date [and insert reason]	Any Councillor	When Standing Orders have not been suspended	The meeting is ceased to reconvene at the specified time/date.	The meeting continues (if the Governance Rules allow)	Yes
<b>Consideration of confidential matter(s) (Close the meeting to members of the public)</b>	That, in accordance with section 66(2)(a) of the Local Government Act 2020 the meeting be closed to members of the public for the consideration of item xx which is confidential as it relates to [insert reason]	Any Councillor	During the election of the Mayor/Deputy Mayor	The meeting is closed to members of the public	The meeting Continues to be open to the public	Yes
<b>Reopen the meeting</b>	'That the meeting be reopened to members of the public'	Any Councillor		The Meeting is reopened to the public	The meeting remains closed to the public	No

### 3.10.14 Notices of Motion

- (1) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- (2) A Notice of Motion must be in writing, signed by the Councillor (including by electronic means), and be lodged with the Chief Executive Officer no later than 12 noon 10 business days before the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.
- (3) The Chief Executive Officer must inform Councillors about the legal and cost implications of any proposed Notice of Motion. The Chief Executive Officer may suggest revised wording to the draft Notice of Motion to facilitate compliance with the requirements for Notices of Motion under this Local Law.
- (4) A Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- (5) A Notice of Motion must call for a Council report if the Notice of Motion proposes any action that:
  - (a) impacts the levels of Council service;
  - (b) commits Council to expenditure greater than \$5,000 that is not included in the adopted Council Budget;
  - (c) proposes to establish, amend or extend Council policy;
  - (d) proposes to impact the rights of any person who has not had the opportunity to contribute their views;
  - (e) commits Council to any contractual arrangement; or
  - (f) concerns any litigation in respect of which Council is a party.
- (6) The Chief Executive Officer must reject any Notice of Motion which:
  - (a) is too vague;
  - (b) is defamatory;
  - (c) may be prejudicial to any person or Council;
  - (d) is objectionable in language or nature; or
  - (e) is outside the powers of Council.
- (7) The Chief Executive Officer may reject a proposed Notice of Motion that relates to a matter that can be addressed through the operational service request process.
- (8) If rejecting a Notice of Motion, the Chief Executive Officer must inform the Councillor who lodged it of that rejection and the reasons for the rejection no later than nine business days before the Meeting at which it is intended to be considered. The Councillor may submit a revised Motion within 24 hours.
- (9) The Chief Executive Officer may designate a Notice of Motion to be confidential in accordance with relevant grounds as contained in the Act, in which case, the Notice of Motion will be considered in the part of the relevant Council Meeting that is closed to members of the public.
- (10) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda and outline the policy, financial and resourcing implications if the Notice of Motion is passed.
- (11) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.

- (12) The Chief Executive Officer must cause all Notices of Motion to be sequentially numbered, dated and entered in a register.
- (13) Unless Council resolves otherwise, each Notice of Motion must be considered in the order in which they were received.
- (14) The Motion moved must not be substantially different to the motion published in the Agenda, however may be amended by resolution of the Council.
- (15) If a Councillor who has lodged a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chairperson to do so, any other Councillor may move the Motion.
- (16) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

#### **3.10.15 Notices of Rescission**

- (1) A notice of rescission is a form of Notice of Motion. Accordingly, all provisions in these Rules regulating Notices of Motion equally apply to notices of rescission.
- (2) Motions to rescind or alter a previous resolution of Council can be made by:
  - (a) notice of rescission delivered by a Councillor in accordance with sub-rule (3); or
  - (b) recommendation contained in an officer's report included in the Agenda.
- (3) A Councillor may propose a Motion to rescind or alter a previous resolution of Council provided:
  - (c) the previous resolution has not been acted on; and
  - (d) a notice is delivered to the Chief Executive Officer or Delegate setting out:
  - (e) the relevant previous resolution to be rescinded or altered; and
  - (f) the Meeting and date when the relevant previous resolution was carried.
- (4) A notice of rescission must be in writing, signed (including by electronic means) by a Councillor and be delivered to the Chief Executive Officer or a Delegate by 12 noon at least 10 business days prior to the next Ordinary Meeting.
- (5) The Chief Executive Officer, or a member of Council staff with responsibility for the subject matter of a resolution, may implement a resolution of Council at any time after the close of the Meeting at which it was made. A resolution of Council will be deemed to have been acted on if:
  - (a) its contents or substance has been formally communicated to a person whose interests are materially affected by it, including by publishing the proposed Minutes of a Council Meeting on Council's website; or
  - (b) a statutory process has been commenced so as to vest enforceable rights or obligations on Council or any other person.
- (6) Notwithstanding sub-rule (4), the Chief Executive Officer or member of Council staff must defer implementing a resolution which:
  - (a) has not been acted on; and
  - (b) is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-clause rule (2), unless deferring implementation of the resolution would have the effect of depriving the resolution of usefulness, giving rise to non-compliance with a legal obligation or placing the Council at legal, financial or other risk.
- (7) 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 rescission be re-listed at a future Meeting.

- (8) If a Motion for rescission is not moved at the Meeting for which it is listed, it lapses.
- (9) A notice of rescission listed on an Agenda may be moved by any Councillor present but if not being moved by the Councillor who submitted it, must be moved in the form it was listed and must not be amended.

#### **3.10.16 Change of Council Policy**

- (1) Council reviews its policies to ensure they are current and continue to reflect community expectations and the position held by a particular Council.
- (2) It is good practice for Council to review significant policies at least once in each Council term (every 4 years) and such reviews may lead to change in policy position.
- (3) Subject to sub-rule (4), if Council wishes to change a Council policy, a formal notice of rescission is not required.
- (4) If a policy has been in force in its original or amended form for less than 12 months, any intention to change the policy which may result in a substantial change to the policy's application or operation for members of the public should be communicated to those affected, and their comment sought, prior to the policy being changed.

#### **3.10.17 Foreshadowed Items**

- (1) At the time designated in the Ordinary Meeting Agenda, a Councillor may foreshadow a Notice of Motion to be submitted for consideration at the next Ordinary Meeting by indicating, when called on to do so by the Chair, the subject matter of the foreshadowed Notice of Motion.
- (2) The subject matter, as indicated by the Councillor, of a Foreshadowed Item will be recorded in the Minutes.
- (3) No discussion or debate is allowed on a Foreshadowed Item.
- (4) A Foreshadowed Item will have no further formal status at that Council Meeting.
- (5) Foreshadowed Items are intended to be used to indicate to Council and the community matters of importance that will be raised at the next Council Meeting.
- (6) If a Councillor does not submit a Notice of Motion in accordance with Clause 63 for the next Ordinary Council Meeting, no further action on a Foreshadowed Item will occur.

### **3.11 Points of Order**

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#### **Overview Notes:**

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

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- (1) A Councillor raising a Point of Order must state:
  - (a) the Point of Order; and
  - (b) any chapter, Rule, paragraph or provision relevant to the Point of Order.
- (2) The Chairperson must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the Point of Order raised, without entering into any discussion or comment.
- (3) The Chairperson may adjourn the Meeting to consider a Point of Order; otherwise he or she must rule on it as soon as it is raised.

- (4) All other matters before Council are suspended until the Point of Order is decided.

#### **3.11.1 Dissent in Chairperson's ruling**

- (1) A Motion of dissent in the Chairperson's ruling must, if seconded, be given priority to all other items of business and a substitute Chairperson must be elected to preside while the Motion is being considered.
- (2) The substitute Chairperson must put questions relative to the ruling to the Chairperson first, and then to the mover of the Motion.
- (3) The substitute Chairperson must conduct a debate on the Chairperson's ruling, and the matter must be decided by a majority vote.
- (4) The Chairperson must then resume the Chair for the remainder of the Meeting.

#### **3.11.2 Valid points of order**

- (1) A Point of Order may be raised in relation to:
  - (a) a Motion which under Clause 50 should not be accepted by the Chairperson;
  - (b) a question of procedure;
  - (c) a Councillor who is, or appears to be, out of order;
  - (d) debate that is irrelevant to the matter under consideration;
  - (e) a matter that is outside the powers of Council; or
  - (f) any act of Disorder.

#### **3.11.3 Contradiction or opinion**

- (1) Rising to express a mere difference of opinion or to contradict a speaker is not a Point of Order.

#### **3.11.4 Disorderly Conduct**

- (1) The conduct of Councillors at Council Meetings is governed by the Act, these Rules and the Councillor Code of Conduct.
- (2) Where a Councillor engages in improper or disorderly conduct, or acts in a way that otherwise disrupts the Meeting, and prevents the conduct of Council business:
  - (a) Council may, by resolution, suspend that Councillor from a portion of the Meeting or from the balance of the Meeting where the Chairperson has warned the Councillor to cease that behaviour; or
  - (b) The Mayor, at a Council meeting, having previously warned the Councillor to cease that behaviour, may direct a Councillor to leave the meeting for a period of time or the balance of the Meeting.
- (3) Where Council suspends a Councillor under sub-rule (1)(a), or the Mayor directs a Councillor to leave the meeting under sub-rule (1)(b) the Councillor will take no active part in the portion of the Meeting from which he or she has been suspended.
- (4) If a Councillor has been suspended from a meeting or directed to leave in accordance with sub-rule (3) the Chairperson may ask the Chief Executive Officer, an Authorised Officer or a member of Victoria Police to remove the Councillor.

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



## 3.12 Minutes

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### Overview Notes:

The Minutes of a meeting must contain details of the proceedings and resolutions made, be clearly expressed, be self-explanatory and incorporate relevant reports or a summary of the relevant reports considered in the decision-making process. The Minutes of a Council or Delegated Committee Meeting must be submitted to the next appropriate Council Meeting or Delegated Committee meeting (as the case may be) for confirmation.

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#### 3.12.1 Keeping of Minutes

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

- (a) the date, place, time and nature of the Council Meeting;
- (b) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
- (c) the titles of the members of Council staff present who are not part of the gallery;
- (d) the disclosure of a conflict of interest made by a Councillor in accordance with the Act;
- (e) the arrivals and departures of Councillors, during the course of the Meeting (including any temporary departures or arrivals);
- (f) every Motion and amendment moved (including procedural Motions),
- (g) the outcome of every Motion moved;
- (h) where a division is called, the names of every Councillor and the way their vote was cast (and if they abstained);
- (i) when requested by a Councillor, a record of their support of, opposition to, or abstention from voting on any Motion;
- (j) for the purposes of sub-rules (h) and (i) an abstention will be recorded along with a note that the vote was counted against the question in accordance with section 61(5)(e) of the Act.
- (k) details of any failure to achieve or maintain a quorum;
- (l) a summary of any question asked and the response provided as part of public question time
- (m) the items about which community statements have been made and the number of community statements;
- (n) details of any petitions made to Council;
- (o) the time and reason for any adjournment of the Meeting or suspension of standing orders;
- (p) any other matter, which the Chief Executive Officer or Delegate thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes; and
- (q) the time the Council Meeting was opened and closed, including any part of the Council Meeting that was closed to members of the public.

#### 3.12.2 Electronic minutes

- (1) Once confirmed, the minutes may be stored electronically in perpetuity as the record of Council business.

### 3.12.3 Confirmation of Minutes

- (1) The Minutes as recorded by the Chief Executive Officer, or Delegate, will be made available as the proposed Minutes to:
  - (a) Councillors, within 7 business days;
  - (b) members of the public, by publishing them on Council's website, within 9 business days
  - (c) of the Council Meeting they relate to.
- (2) At every Ordinary Council Meeting the Minutes of the preceding Council Meeting(s) must be dealt with as follows:
  - (a) a Motion will be moved to confirm the Minutes in the following terms: 'That the Minutes of the .....Meeting held on .....20.....be confirmed.';
  - (b) if a Councillor indicates opposition to the Minutes, the Councillor must specify the particular item or items in the Minutes and, after asking any questions to clarify the matter, can only move a Motion to rectify the alleged error(s) in the Minutes by adding the following words to the Motion in sub-clause (2) (a) '...subject to the following alteration(s).....'.
- (3) no debate or discussion is permitted on the confirmation of Minutes except as to their accuracy as a record of the proceedings of the Council Meeting to which they relate;
- (4) once the Minutes are confirmed in their original or amended form, the Minutes must, if practicable, be signed by the Chairperson of the Meeting at which they have been confirmed; and
- (5) the Minutes must be entered in the minute book and each item in the minute book must be entered consecutively.

### 3.12.4 Webcasting and Recording of Proceedings

- (1) The Chief Executive Officer (or his or her Delegate) may, for the purposes of minute taking, cause all or part of the proceedings of a Meeting to be recorded on suitable audio or video recording equipment.
- (2) The Chief Executive Officer will cause a livestream of the proceedings of a Meeting to be conducted and the recording of that livestream to be made available to the public.
- (3) A Meeting that has been closed to members of the public for consideration of confidential matters will not be livestreamed.
- (4) A Meeting that has been closed to members of the public for security reasons or because it is necessary to do so to enable the meeting to proceed in an orderly manner, must continue to be livestreamed.
- (5) A meeting that has been closed to members of the public for security reasons or because it is necessary to do so to enable the meeting to proceed in an orderly manner must be adjourned if the livestream is not possible.
- (6) A person in the gallery must not operate film, photographic, tape-recording or other equipment to reproduce sound and/or images at any Meeting without first obtaining the consent of the Chairperson.
- (7) The consent of the Chairperson given under sub-clause (3) may be revoked at any time during the course of a Meeting by the Chairperson stating that consent has been revoked and ordering that the recording cease, at which time the recording must cease.

### 3.13 Suspension of Standing Orders

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#### Overview Notes:

Standing Orders are the rules made to govern the procedure at Council Meetings and Special Meetings contained in this Local Law. The Standing Orders cover a range of matters including the order of business, rules of debate, procedural motions and election procedures. Standing Orders can be suspended to facilitate the business of a meeting but should not be used purely to dispense with the processes and protocol of the government of Council.

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#### 3.13.1 Suspension of standing orders

- (1) To temporarily remove the constraints of formal meeting procedure and allow full discussion or clarification of an issue, Council may, by resolution, suspend standing orders in accordance with the procedural motion table at Rule 10.13.
- (2) Suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council.
- (3) No Motion can be accepted by the Chairperson or lawfully be dealt with during any suspension of standing orders, except a Motion to resume standing orders.
- (4) No Motion to suspend standing orders can be accepted by the Chairperson during a second extension of time for a Meeting.

### 3.14 Circumstances in which Council will close a meeting to members of the public

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#### Overview Notes:

*Council is committed to openness and transparency in its decision making and will only close a meeting to members of the public when it is unavoidable. In circumstances a meeting is closed the public to maintain order or safety and security, the meeting will be livestreamed.*

*The Act provides the basis for matters to be considered as confidential. Council will only close a meeting to the public for consideration of confidential matters in accordance with the Act and its Public Transparency Policy.*

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- (1) The Chief Executive Officer may determine to advertise that a meeting will be closed to members of the public if:
  - (a) There is reason to believe the safety or security of Councillors, Council staff or members of the public will be at risk if the meeting is open to the public; or
  - (b) All matters to be considered at the meeting are confidential in nature.
- (2) Council may resolve to close a meeting to members of the public if:
  - (a) There is reason to believe the safety or security of Councillors, Council staff or members of the public is at risk; or
  - (b) A meeting, has become, or is at risk of becoming so disorderly that the business of Council cannot be conducted; or
  - (c) The matter to be considered relates to confidential matters.
- (3) Having closed the meeting in accordance with sub-rule (2), Council may resolve that its decision or any report considered, or any part of its decision or any report considered, may be released to the public, to provide clarity that a Councillor or Council staff member who discusses those elements resolved to be released is not releasing confidential information.

### 3.14.1 Designated Confidential Information

- (1) If, after the repeal of section 77(2)(c) of the *Local Government Act 1989*, the Chief Executive Officer is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, he or she may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- (2) Information which has been designated by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.

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## CHAPTER 4 DELEGATED COMMITTEES

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### Overview Notes:

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

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

## CHAPTER 5 – CONFLICTS OF INTEREST

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### Overview Notes:

The Act defines general and material conflicts of interest and provides exemptions for remoteness and interests in common with a substantial proportion of ratepayers along with other specific circumstances.

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

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

Further guidance is available from the Managing Conflicts of Interest guideline.

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

- (1) Councillors, members of Delegated Committees and Council staff and contractors are required to:
  - (a) Avoid - all situations which may give rise to conflicts of interest;
  - (b) Identify - any conflicts of interest; and
  - (c) Disclose – or declare all conflicts of interest.

### **5.2 Councillors and Members of Delegated Committees**

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

### **5.3 Procedure at a Council or Delegated Committee Meeting**

- (1) At the time indicated in the Agenda, a Councillor with a conflict of interest in an item on that agenda must indicate they have a conflict of interest by clearly stating:
  - (a) The item for which they have a conflict of interest; and
  - (b) Whether their conflict of interest is general or material; and
  - (c) The circumstances that give rise to the conflict of interest.
- (2) Immediately prior to the consideration of the item in which they have a conflict of interest, a Councillor or Member of a Delegated Committee must indicate to the meeting the existence of the conflict of interest and leave the meeting.
- (3) A Councillor who is not present at the designated time in the agenda for disclosures of conflicts of interest, must disclose their conflict of interest in the manner that required for the declarations of conflicts of interest at sub-rule (1) prior to leaving the meeting.
- (4) A Councillor or Member of a Delegated Committee who discloses a conflict of interest and leaves a Council meeting must not communicate with any participants in the meeting while the decision is being made.

## **5.4 Procedure at other meetings organised, hosted or supported by Moreland**

- (1) A Councillor who has a conflict of interest must not participate in discussion of matters that will come before Council for a decision, or if a decision will be made by a member of staff acting under delegation.
- (2) At the time indicated on the Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest and the matter in which the conflict of interest arises.
- (3) If there is no Agenda, a Councillor with a conflict of interest will indicate the existence of the conflict of interest as soon the matter arises.
- (4) At the time for discussion of that item, the Councillor will leave the discussion and not communicate with any members of the meeting for the duration of the discussion.
- (5) The existence of a conflict of interest will be recorded in the minutes of the meeting.
- (6) If there are no minutes kept of the meeting, the conflict of interest will be recorded in a meeting record and provided to the Governance team for recording in the register of Conflicts of Interest.
- (7) The meeting minutes or record will also record the duration of the discussion and whether the Councillor left the meeting.
- (8) Meeting records and reports will be presented to Council for noting and inclusion on the public record.

## **5.5 Council staff**

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

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

- (1) Council staff must disclose the existence of all conflicts of interest in writing and in the form determined by the Chief Executive Officer.
- (2) All conflicts of interest disclosed by Council staff will be provided to the Governance team for recording in the register of Conflicts of Interest.
- (3) A Council staff member who has disclosed a conflict of interest may provide advice to Council or another staff member acting under delegation if:
  - (a) The number and qualifications of other people providing advice regarding the same matter is equal or greater; or
  - (b) The staff member who has disclosed the conflict of interest is the only staff member with expertise in the area; and
  - (c) The staff member's Director determines that the conflict of interest has not influenced the advice provided; and
  - (d) The existence of the conflict of interest is documented in all advice provided by that staff member, and in the case of verbal advice, is documented by the decision maker.



## 5.7 Contractors and Consultants

- (1) All Contractors and consultants engaged by Council to provide advice to the decision making process will be required to disclose conflicts of interest
- (2) A Contractor or consultant who discloses a conflict of interest will not be engaged to provide advice on that matter unless;
  - (a) The conflict is so remote or insignificant it could not be considered to influence the advice being provided; or
  - (b) There are no other contractors or consultants reasonably available and qualified to provide the technical advice required; and
  - (c) The conflict of interest is documented in all advice provided by that contractor or consultant.

### Section 127 of the Act - General conflict of interest

(1) Subject to section 129, a relevant person has a **general conflict of interest** in a matter if an impartial, fair-minded person would consider that the person's private interests could result in that person acting in a manner that is contrary to their public duty.

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

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

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

### 128 Material conflict of interest

(1) Subject to section 129, a relevant person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter.

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

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

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

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

## CHAPTER 6 - DELEGATIONS

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### Overview Notes:

Council can make decisions (act) in two ways – by resolution at a Council meeting or by delegation (others acting on its behalf). The 2020 provides for Council to delegate to the Chief Executive Officer.

Delegation of Council powers to the Chief Executive Officer and other members of Council staff is a long-established practice to enable day to day operational decisions to be made efficiently. Delegation of Council powers is primarily enabled and regulated by the Local Government Act 2020, however powers, duties and functions may be delegated from a range of Acts, Regulations and local laws.

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

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

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

## CHAPTER 7 – COMMON SEAL

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### Overview Notes:

*The purpose of this Section is to provide for the security and proper use of the Common Seal. The Common Seal is the corporate signature of Council, and exists in the form of a stamp. It evidences Council's corporate will and authenticates decisions taken and acts performed by Council.*

*As many of the powers, duties and functions of a Council are delegated to the Chief Executive Officer and other members of Council staff, the Common Seal of Council is only used on legal documents such as local laws, contracts, agreements, transfers of land and other documents where required by legislation or where outside the Chief Executive Officer's delegation.*

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- (1) A person must not use the Common Seal without authority from Council or the Chief Executive Officer exercising a relevant delegation.
- (2) The Chief Executive Officer must ensure the security of the Common Seal at all times.
- (3) The affixing of the Common Seal to any document must be attested to by the signatures of both:
  - (a) a Councillor; and
  - (b) the Chief Executive Officer,  
acting on behalf of Council.

## CHAPTER 8 JOINT COUNCIL MEETINGS

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### Overview Notes:

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

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

### **Section of the Act - Joint meetings of Councils**

- (1) Two or more Councils may determine to hold a joint meeting.
- (2) A joint meeting is a Council meeting of each Council for the purposes of this Act and the provisions of this Act, except section 61(3), (4) and (5)(d), apply accordingly.
- (3) A joint meeting is to be constituted by the Councillors of the Councils holding the joint meeting consisting of—
  - (a) the total number of Councillors determined by the Councils holding the joint meeting; and
  - (b) at least 3 Councillors from each of the Councils holding the joint meeting.
- (4) A quorum at a joint meeting is constituted by the number of Councillors that is equal to at least a majority of the Councillors from each of the Councils holding the joint meeting.

## CHAPTER 9 – WHAT INFORMS DECISION MAKING

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### Overview Notes:

Advisory Committees play a key role in connecting community views and experts with the decision-making processes of Council. These committees provide advice to Council and to Council officers exercising delegation to make decisions or implement policy.

These committees, usually comprised of community members and Councillors, and may sometimes include representatives of community organisations. These committees are essential forums to provide input to the development of Council policy and decision making in their areas of focus.

Reporting of these committees to Council is a transparency mechanism.

The appointment of Councillors to specific areas of responsibility also provides a framework for relationships between Councillors and the administration of Council to underpin informed decision making.

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

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

The Councillor Responsible For role is outlined in this section.

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

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

Additionally, Council has an Audit and Risk Committee

The Audit and Risk Committee is an advisory committee and does not have any delegated powers, including executive powers, management functions, or delegated financial responsibility. All recommendations of the Committee shall be referred to the Council for approval, other than the:

- Strategic Annual Internal Audit Plan;
- Memorandums of Audit Planning (MAP) that do not require the approval of the Council; and
- Management responses to audit recommendations arising from Internal Audit Reports.

The Audit and Risk Committee has the authority to review the Annual Financial Statements and Performance Statement and provide advice to the Council. The Committee can recommend to Council its approval 'in principal', the signing of the Annual Financial Statements and Performance Statement.

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### 9.1 Advisory Committees

#### 9.1.1 Role and Term of Advisory Committees

- (1) In the first year of each Council term, Council will establish its Advisory Committees for the next four years.
- (2) Advisory Committees established by Council will be consulted for input on related policy, strategy or major operational proposals.

- (3) Advisory Committees established by Council will be chaired by a Councillor appointed in accordance with Rule 9.1.2,
- (4) Each Advisory Committee will be established in accordance with a model terms of reference determined by the Chief Executive Officer that at a minimum will prescribe:
  - (a) Membership terms that provide for renewal of membership and continuity of contribution, with provision for initial appointments to support rotation of memberships.
  - (b) Inclusive and transparent recruitment processes for community member membership and participation.
  - (c) Requirements for disclosures of conflicts of interest.
  - (d) A description of the roles of members including attendance and participation requirements, role of the committee, councillor chair, reporting requirements, confidentiality
- (5) Any person appointed to an Advisory Committee that nominates for election to Council, State Parliament or Federal Parliament must take leave of absence from their Committee position from the time of declaring they have nominated (or intend to nominate). Upon election, they will be deemed to have resigned from the Committee.
- (6) In order to maintain transparency of Advisory Committee operations, the following information is to be published on Council's website in respect of each Advisory Committee:
  - (a) The Terms of Reference
  - (b) The names of all members \*
  - (c) Reports of Committee activities (in minutes of Council meetings)
- (7) All Advisory Committees established by Council, except the Audit and Risk Committee, will sunset on 30 June following each Council election, unless they have been re-established in the new Council term.

#### **9.1.2 Appointment of Councillors to Committees**

- (1) At the next Ordinary Council Meeting after the Meeting at which the Mayor is elected, or at a Council Meeting held as soon as practicable after that Meeting, Council must:
  - (a) appoint Councillors as members of, or representatives on, committees established by Council;
  - (b) appoint Councillors as delegates to external committees and organisations; and
  - (c) appoint Councillors Responsible For,for the ensuing year.

#### **9.1.3 The role of a 'Councillor Responsible For'.**

- (1) The role of a Councillor Responsible For includes:
  - (a) Liaising with the members of the relevant advisory committee to ensure effective coordination of individual issues and projects;
  - (b) Facilitating good Council/Councillor/administration coordination and communication on key issues;
  - (c) Advising and reporting to colleagues on project issues and to facilitate briefings of Councillors where necessary, allowing for the testing of views on particular projects prior to more formal proposals being developed;

- (d) Providing input from Councillors to the Chief Executive Officer on relevant projects; and
- (e) With the consent of the Mayor, acting as a spokesperson, on behalf of Council, in respect of the project in question.

#### **9.1.4 Reports by Advisory Committees**

- (1) A Councillor who is the Chairperson of an advisory committee, appointed by Council as a Member of an advisory committee, community consultative committee or reference committee, or to an external body may provide to the next practicable Council Meeting a written account of the most recent discussions of the committee or body.
- (2) The written accounts must be submitted to the Chief Executive Officer, or Delegate, for inclusion in the Agenda of a Council Meeting.
- (3) The Chief Executive Officer, or Delegate, will administer a procedure to ensure the written account will be included in the next practicable Agenda.
- (4) Written reports of Advisory Committees must include any disclosures of conflicts of interest and record whether or not the person who disclosed a conflict of interest left the meeting for the relevant discussion.

## **9.2 Hearing Committees**

- (1) Council will establish Hearing Committees to provide an opportunity to hear from community members in formal setting on key issues.
- (2) A Hearing Committee will be comprised only of Councillors.
- (3) Where issue is affects a large proportion of the Moreland community all councillors will be appointed to the Hearing Committee.
- (4) Priority will be given to addresses from those members of the community who have registered an interest in addressing a Hearing Committee.
- (5) Community members will be provided with reasonable notice of the date and time that they will be invited to address a Hearing Committee.
- (6) Council may resolve that a Hearing Committee meeting will be held electronically and make provisions for community members address the committee by a video conferencing tool.
- (7) Council may resolve a Hearing Committee meeting will be livestreamed.
- (8) A summary of proceedings of all Hearing Committee meetings held will be reported to Council.

## **9.3 Council Reports**

- (1) The Chief Executive Officer will determine the form of reports to Council prepared for inclusion in the agenda for a Council or Delegated Committee meeting.
- (2) Reports presented to Council for consideration and decision will address where relevant:
  - (a) Alignment with the Community Vision, Council Plan, strategies and policies;
  - (b) Community impact;
  - (c) Climate emergency and environmental sustainability implications;
  - (d) Economic sustainability implications;
  - (e) Financial implications;
  - (f) Legal and risk considerations;



- (g) Human Rights considerations;
- (h) Community consultation and engagement;
- (i) Conflicts of interest that have arisen in the preparation of the report.

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## CHAPTER 10 - COUNCIL RECORDS

### 10.1 Records of meetings held under the auspices of Council

- (1) A record of the matters discussed at meetings organised or hosted by Moreland that involve Councillors and Council Staff will be kept.
- (2) Records kept in accordance with sub-rule one will include
  - (a) The attendees at the meeting, including organisations represented by external presenters;
  - (b) The title of matters discussed
  - (c) Any conflicts of interest disclosed and whether the person with the conflict of interest left the meeting.
- (3) Where minutes are kept of a meeting and made available to the community an additional record is not required to be kept.

**Section 131 of the Act** provides that in respect of a conflict of interest in respect of a matter at a meeting conducted under the auspices of the Council that is not a meeting specified in section 130(1)(a), (b) or (c).

(2) A Councillor who has a conflict of interest in respect of a matter must—

(a) disclose the conflict of interest in the manner required by the Council's Governance Rules; and  
(b) comply with the procedures specified in the Council's Governance Rules for the purposes of this section.

(3) If a Councillor fails to comply with subsection (2), an application may be made under section 154 to a Councillor Conduct Panel alleging serious misconduct.

"Under the auspices of Council" is taken to mean in any way resourced by Council.

### 10.2 Councillor attendance records

- (1) Council will maintain a register of Councillor attendance at Council Meetings, Delegated Committee Meetings and meetings arranged to brief Councillors.
- (2) The register of Attendance kept in accordance with sub-rule (1) will be published on Council's website quarterly

## CHAPTER 11 – COMMUNITY ASSET COMMITTEES

### Overview Notes:

The Act provides for Council to establish a community asset committee for the management of a community asset such as a hall. Council may appoint members of the community to the committee and delegate to it powers, duties or functions. The powers delegated to a community asset committee must be limited in the amount and purpose of any financial delegation.

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

### **Section 65 of the Act provides: Community Asset Committee**

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

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

Delegation of Powers, Duties or Functions to a Community Asset Committee is provided for in **Section 47 of the Act provides:**

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

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

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

## CHAPTER 12 – ELECTION PERIODS

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### Overview Notes:

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

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

Additionally, the Election Period Policy addresses Councillors and staff standing as candidates in Council, State or Federal elections.

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### 12.1 Election Periods Generally

- (1) Council will have in place an election period policy that:
  - (a) Governs decision making during a local government election period, including what may be considered at a Council meeting;
  - (b) Prohibits the use of Council resources for any election campaign purposes, including Federal, State or Council elections;
  - (c) Sets out the conditions for any community engagement required to be undertaken during an election period, including consultations, Civic events, and activities of Advisory Committees established by Council;
  - (d) Sets out the requirements for any Council publications during a local government election period – including the website, social media, newsletters and advertising – to ensure Council does not publish materials that relate to issues that are the subject of election campaigns;
  - (e) Defines roles and responsibilities in relation to who is the spokesperson for Council during an election period;
  - (f) Sets out the requirements for a Councillor or member of Council staff who is a candidate in an election including a Federal, State or Council election.
- (2) At least once in each Council term and, not later than 12 months prior to the commencement of an election period, Council will review its election period policy.
- (3) The Election Period Policy forms part of these Governance Rules.
- (4) The operation of Council Advisory Committees shall be suspended upon the commencement of the election period ahead of a general Council election.
- (5) Any outstanding Delegate's Reports may still be reported to an ordinary meeting of Council during this period.
- (6) Council Committees shall resume meeting following the election and the appointment by the incoming Council of Councillors to each committee.

**Section 69 of the Act provides:**

- (1) A Council must include an election period policy in its Governance Rules.
- (2) An election period policy must prohibit any Council decision during the election period for a general election that—
  - (a) relates to the appointment or remuneration of the Chief Executive Officer but not to the appointment or remuneration of an Acting Chief Executive Officer; or
  - (b) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
  - (c) the Council considers could be reasonably deferred until the next Council is in place; or
  - (d) the Council considers should not be made during an election period.
- (3) An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

## **12.2 Election Period Policy**

### **12.2.1 Introduction**

The Act requires Council to include an Election Period Policy (Policy) in its Governance Rules.

### **12.2.2 Context**

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

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

An Election Period Policy must also prohibit any Council decision during the election period for a general election or by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence voting at the election.

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

### **12.2.3 Monitoring, Evaluation and Review**

The requirements of this policy will be monitored throughout each election period to ensure compliance.

#### 12.2.4 Associated documents

Local Government Act 2020

Councillor Code of Conduct

Environmental Protection Act 1970 (EPA Act)

Approval Memo – Appendix 1

#### 12.2.5 Policy Objectives

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

The policy complies with the Act, which requires councils to have an election period policy that sets out requirements relating to conduct, decision making, transparency and equity, and use of Council resources during an election period.

#### 12.2.6 Policy Details

##### (1) Election Period

During the 'Election Period' for a Municipal General Election the Council will be deemed to be in 'Caretaker Mode'. The election 'caretaker' period extends for 32 days - from the time nominations close on Nomination Day, until 6pm on election day.

During an election period, Councillors:

- Will continue to fulfil their duties (unless they are granted a leave of absence);
- Will continue to engage, and communicate with, the community in their Councillor role;
- Must comply with the Act and Councillor Code of Conduct, and
- Must not use their position to influence Council officers, or access Council resources or information, in support of any election campaign or candidacy.

Section 69 of the Act prohibits any Council decision during the election period for a general election that:

- Relates to the appointment or remuneration of the Chief Executive Officer, but not to the appointment or remuneration of an acting Chief Executive Officer;
- Commits the Council to expenditure exceeding 1% of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or
- The Council considers could be reasonably deferred until the next Council is in place; or
- The Council considers should not be made during an election period.

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular decision, the Chief Executive Officer may make an application to the Minister for a compliance exemption in accordance with section 177 of the Act.

During an election period, it shall be the ultimate responsibility of the Chief Executive Officer, having consulted with the Mayor, to determine if a matter is to be presented to Council for decision.

## **(2) Guidance on Decisions**

Council will avoid making decisions that would affect voting at an election or decisions that may unreasonably bind an incoming Council and could be deferred until after the election.

Examples of inappropriate decisions include:

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

The only items to be considered at an Ordinary Council or Special Committee Meeting held during the election period, will be the Annual Report, and administrative items to complete the Council's term of office, for example, routine governance items (including records of meeting held under the auspices of Council reporting). Public Question Time and Community Statements will be suspended during the election period.

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

## **(3) Officers with Delegated Authority**

During the election period, Council officers must defer making a decision under a delegation from Council or sub-delegation from the Chief Executive Officer, that could be reasonably deferred until the next Council is in place.

## **(4) Caretaker Statement**

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

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

- The recommended decision is not, a decision prohibited by the Act and is a decision that falls within the guidance of the Election Period Policy.
- The recommended decision is outside the guidance of the Election Period Policy, but the following negative consequences of a failure to make a decision on this matter outweigh the consequences of binding an incoming Council. *[Insert description of negative consequences of failure to make decision]*.
- The recommended decision is a decision prohibited in the Act during an election period, but compliance exemption was sought from the Minister in accordance with section 177 of the Act and was granted by on *[insert date]*.

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

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

There will be no Notices of Motion accepted during the Caretaker Period.



## **(5) Council resources must not be used**

Council resources must not be used in any way that supports an election campaign or in a way that is intended or likely to influence voting in the election.

## **(6) Candidacy**

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

### **(a) State and Federal Government Elections**

Councillors will ensure there is a demonstrable distinction between their obligations to Council and their personal interests as a candidate, or member of a political party, in an election period prior to a state or federal election. In accordance with the Councillor code of conduct, a Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as a candidate in a state or federal election, is a 'Prospective Candidate' and will provide written advice to the Chief Executive Officer, as soon as practicable, who will then advise all Councillors.

Councillors will not use Council resources or participate in electioneering at Council events, meetings or functions, in support of any candidate in a state or federal election.

Where clauses of this policy apply to a Councillor or candidate, it is intended that they be applied in the case of a state, federal or Council election.

## **(7) Council Publications**

### **(a) Electoral matter**

Council will not print, publish or distribute (or cause to be printed, published or distributed) any electoral material (anything containing electoral matter) during an election period.

The following definitions from the Act are noted:

Section 3(1) **'publish'** means publish by any means including by publication on the Internet;

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

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

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

Council will not issue, publish or distribute any publication during an election period, other than media and social media responses/statements on a service or issue, or those that are required under an Act or regulation, or the Annual Report media release.

'Publications' include hard copy and electronic advertisements, promotional media releases, fliers, posters, newsletters/updates, booklets, surveys, invitations and group mailouts/emails.

Any publications to be issued during the election period are to be forwarded to the relevant Director for approval, and then sent to the Governance unit for vetting for electoral matter. Once vetted, the publication will then be submitted to the Chief Executive Officer for approval. **Appendix 1** contains the approval memorandum required for a publication during the election period.

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

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

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

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

#### **(b) Annual Report**

It is a requirement of the Act that Council's Annual Report is presented by the Mayor at an open meeting of Council held, in the year of a general election, on a day not later than the day before election day. Every endeavour will be made for the report to be prepared and presented prior to the commencement of the election period.

#### **(8) Council Resources**

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

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

- i. Council resources, including offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business during the Caretaker Period, and will not be used for the personal advantage of any Councillor or candidate in connection with any election. This does not apply to the provision of space for the Returning Officer.
- ii. No new publications or pamphlets, including Inside Moreland will be published by Council during the election period.
- iii. Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operations of the Council, for example for a Citizenship Ceremony, and such speeches will not be circulated or available for publication.
- iv. No Council logos, letterheads, business cards, photos or other Moreland City Council branding will be used for, or linked in any way, to a candidate's election campaign.
- v. It is recommended that Council staff who are either following Councillors/candidates Facebook pages or who are 'friends' with them unfriend and/or unfollow the Councillor/candidate during this period.
- vi. There will be no ward or Councillor meetings held.

- vii. The Executive Assistant to the Mayor and Councillors or any other Council staff member will not be asked to undertake any tasks connected directly or indirectly with electioneering.
- viii. Reimbursements of Councillors' out-of-pocket expenses during the Election Period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.
- ix. Where Councillors have Council funded equipment, including laptops, tablets, printers and mobile phones, these are not to be used for election purposes or in a manner that could be perceived as supporting or being connected with a candidate's election campaign.

#### **(a) Council Facilities and Meeting Rooms**

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

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

Candidates wishing to conduct electioneering activities in public space, for example, a stall at a shopping strip or park, must act in accordance with Council's local laws and procedures. No other promotional material, including signage, posters, flyers or banners, for any political candidacy is permitted on Council land or in its facilities at any time.

It is an offense under Council's local laws to display this material on Council land, and penalties apply.

#### **(b) Use of the Title 'Councillor'**

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

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

#### **(c) Photographs and Images**

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

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

### **(9) Election Signage on Council Land**

In order to ensure Council resources including buildings and land will not be used to support any electioneering activity, Council prohibits any type of candidate election signage being erected or displayed on Council land, including:

- Council owned/managed parks, reserves, buildings (exteriors) and nature strips

- Road dividing strips (median strips, traffic islands, roundabouts)
- Trees, shrubs or plants
- Street signs, traffic control signs, parking signs

If election signage is displayed on Council Land:

- Council may request the immediate removal of the signage by the owner or candidate or may remove the signage without notification to the owner or candidate.
- An infringement notice and fine may be issued to the candidate, in accordance with the General Local Law.
- Any costs incurred by Council to remove signage, and/or any costs caused by the signage, for example, damage to trees, may be charged to the candidate.
- If election signage is displayed on Crown, Federal or State land in the City of Moreland, Council contact the relevant land manager to request the sign be removed.
- Victoria Police will be contacted in the event of any one attempting to obstruct Council officers removing signage.
- Council will report all instances of the display on Council land of candidate election signage for a local government election, to the Victorian Electoral Commission.

In accordance with the *EPA Act*, advertising material/documents may not be affixed to any fixed structure for example, light poles, traffic lights etc without the consent of the owner, occupier or manager of the structure

#### **(10) Community Engagement and Council Events**

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

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

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

Therefore, during an election period:

- No public consultation under section 223 of the *Local Government Act 1989* will be conducted during this period.
  - i. Only consultation for the purpose of planning permit applications and operational issues such as canvassing residents' views on small-scale traffic treatments, installation of single trees and the like will be allowed as they are operational in nature and are unlikely to impact the conduct of the election.
  - ii. Civic Events will cease during this time.
  - iii. No election material or active campaigning is to be conducted at Council sponsored festivals.

#### **(11) Equitable Access to Council Information**

The Council recognises that all election candidates have a right to information from the Council administration. However, sitting Councillors will continue to receive information that is necessary to fulfil their elected roles. Neither Councillors nor candidates will receive information or advice

from Council staff that might be perceived to support election campaigns, and transparency will be observed and practised in the provision of all information and advice during the Election Period.

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

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

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

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

## **(12) Publicity**

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

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

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

#### **(a) Council Websites and Social Media**

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

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

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

#### **(13) Assistance to Candidates**

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

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

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

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

# APPENDIX 1

## Approval Memorandum

To: Manager Corporate Governance

From: [insert name and title]

Subject: CERTIFICATION OF PUBLICATION DURING ELECTION PERIOD

Date:

Council will not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill pamphlet or notice (including group emails) during the election period unless the advertisement, handbill, pamphlet or notice has been approved, in writing, by the Chief Executive Officer.

In accordance with the Election Period Policy, Council further commits that where a publication is deemed necessary for a Council service or function, it will be approved by the Chief Executive Officer

Insert details of publication here including:

Information on who is intended to receive it and why it needs to be issued during the election period:


Council Officer name and signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Director Use only:

*The attached material has been reviewed and, to the best of my knowledge, does not contain any electoral related matter. Please authorise this material to be printed, published or distributed.*

Director name and signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Governance review:

*The attached material has been reviewed and, to the best of my knowledge, does not contain any electoral related matter.*

Governance name and signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Certification by Chief Executive Officer

I approve the attached material for printing, publishing or distributing on behalf of Moreland City Council.

Name and Signature: \_\_\_\_\_ Date: \_\_\_\_\_