

Brimbank Governance Rules

August 2020

Contents

Introduction	1
Chapter 1: Governance Framework	2
Chapter 2: Meeting Procedure for Council Meetings	3
Chapter 3: Meeting Procedure for Delegated Committees	32
Chapter 4: Meeting Procedure for Community Asset Committees	33
Chapter 5: Disclosure of Conflicts of Interest	34
Chapter 6: Miscellaneous	38
Appendix: Conduct During Election Policy	39

Introduction

Nature of Rules

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

Date of Commencement

These Governance Rules commence on 1 September 2020.

Contents

These Governance Rules are divided into the following Chapters:

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

Meeting Procedure Local Law

Chapters 2,3,4 of the Governance Rules will be known as the Meeting Procedure Local Law. This Local Law is made under section 111 of the *Local Government Act 1989*.

This Local Law:

- commences on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette, and operates throughout the municipal district; and
- ends on the 10th anniversary of the day on which it commenced operation.

On the commencement of Chapters 2, 3 and 4 of the Governance Rules becoming Local Law, Council's Meeting Procedure Local Law No. 1 of 2015 is revoked.

Definitions

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

Act means the *Local Government Act 2020*.

Chief Executive Officer includes an Acting Chief Executive Officer.

Community Asset Committee means a Community Asset Committee established under section 65 of the Act.

Council means Brimbank City Council.

Council meeting has the same meaning as in the Act.

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

Mayor means the Mayor of *Council*.

these Rules means these Governance Rules

CHAPTER 1: GOVERNANCE FRAMEWORK

1 Context

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

- (a) the overarching governance principles specified in section 9(2) of *the Act*; and
- (b) the following documents adopted or approved by *Council*:
 - (i) **Councillor Code of Conduct**
 - (ii) **Major Policy Governance (Major Policy Consultation) Local Law No. 3 2014**

2 Decision Making

- (a) In any matter in which a decision must be made by *Council* (including persons acting with the delegated authority of *Council*), *Council* must consider the matter and make a decision:
 - (i) fairly, by giving consideration and making a decision which is balanced, ethical and impartial; and
 - (ii) on the merits, free from favouritism or self-interest and without regard to irrelevant or unauthorised considerations
- (b) *Council* must, when making any decision to which the principles of natural justice apply, adhere to the principles of natural justice (including, without limitation, ensuring that any person whose rights will be directly affected by a decision of *Council* is entitled to communicate their views and have their interests considered).
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (i) before making a decision that will directly affect the rights of a person, *Council* (including any person acting with the delegated authority of *Council*) must identify the person or persons whose rights will be directly affected, give notice of the decision which *Council* must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
 - (ii) if a report to be considered at a *Council meeting* concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;
 - (iii) if a report to be considered at a *Delegated Committee* meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
 - (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

CHAPTER 2: MEETING PROCEDURE FOR COUNCIL MEETINGS

Part A - Introduction	4	Division 4 - Motions and Debate	11	Division 9 - Petitions and Joint Letters	24
1. Title	4	26. Councillors May Propose <i>Notices Of Motion</i>	11	58. Petitions and Joint Letters	24
2. Purpose of this Chapter	4	27. Notice Of Motion	11	Division 10 - Voting	24
3. Definitions and Notes	4	28. Chair's Duty	12	59. How Motion Determined	24
Part B - Election of Mayor	5	29. Introducing A Motion or an Amendment	13	60. Silence	24
4. Election of the Mayor	5	30. Right Of Reply	13	61. Recount	24
5. Method of Voting	5	31. Moving An Amendment	13	62. Casting Vote	24
6. Determining the election of the Mayor	5	32. Who May Propose An Amendment	13	63. By Show Of Hands	25
7. Role of Deputy Mayor	7	33. How Many Amendments May Be Proposed	14	64. Procedure For A Division	25
8. Election of Deputy Mayor and Chairs of Delegated Committees	7	34. An Amendment Once Carried	14	65. No Discussion Once Declared	25
9. Appointment of Acting Mayor	7	35. Foreshadowing Motions	14	Division 11 - Minutes	26
10. Appointment of Council Representatives and Delegates	7	36. Withdrawal Of Motions	14	66. Confirmation of Minutes	26
Part C - Meetings Procedure	8	37. Separation Of Motions	14	67. No Debate on Confirmation Of Minutes	27
Division 1 - Notices of Meetings and Delivery of Agendas	8	38. <i>Chair</i> May Separate Motions or Allow Motions to be Moved in a Block	14	68. Deferral Of Confirmation Of Minutes	27
11. Dates and Times of Meetings Fixed by <i>Council</i>	8	39. Priority of address	14	69. Form and Availability of Minutes	27
12. <i>Council</i> May Alter Meeting Dates	8	40. Motions In Writing	15	70. Recording of Meetings	28
13. Meetings Not Fixed by Council	8	41. Repeating Motion and/or Amendment	15	Division 12 - Behaviour	28
14. Notice Of Meeting	8	42. Debate Must Be Relevant To The Motion	15	71. Public Addressing The Meeting	28
Division 2 - Quorums	9	43. Speaking Times	15	72. <i>Chair</i> May Remove	28
15. Quorum	9	44. Addressing the Meeting	15	73. <i>Chair</i> may adjourn disorderly meeting	28
16. Inability To Obtain A Quorum	9	45. Right to Ask Questions	16	74. Removal from Chamber	28
17. Inability To Maintain A Quorum	9	Division 5 - Procedural Motions	16	75. Offences	29
18. Adjourned Meetings	9	46. Procedural Motions	16	Division 13 - Additional Duties of Chair	30
19. Time limits for Meetings	9	Division 6 - Rescission Motions	19	76. The <i>Chair's</i> Duties And Discretions	30
20. Cancellation or Postponement of a Meeting	10	47. Rescission Motions	19	Division 14 - Suspension of Standing Orders	29
Division 3 - Business of Meetings	10	48. If Lost	20	77. Suspension of Standing Orders	30
21. Agenda and the Order Of Business	10	49. If Not Moved	20	Division 15 - Miscellaneous	31
22. Change To Order Of Business	10	50. May Be Moved By Any Councillor	20	78. Meetings Conducted Remotely	31
23. Accessibility	10	51. When Not Required	20	79. Procedure not provided in this Chapter	31
24. Reports of Council Representatives and Delegates	10	Division 7 - Points of Order	21	80. Policies and Guidelines	31
25. Urgent Business	11	52. <i>Chair</i> To Decide	21	81. Council's Common Seal	31
		53. Chair May Adjourn To Consider	21		
		54. Dissent From <i>Chair's</i> Ruling	21		
		55. Procedure For Point Of Order	21		
		56. Valid Points Of Order	22		
		Division 8 - Public Question Time	202		
		57. Question Time	22		

PART A - INTRODUCTION

1. Title

This Chapter, Chapter 3 and Chapter 4 will be known as the "Meeting Procedure Local Law".

2. Purpose of this Chapter

The purpose of this Chapter is to:

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

3. Definitions and Notes

- **3.1** In this Chapter:
 - "*agenda*" means the notice of a meeting setting out the business to be transacted at the meeting;
 - "*Chair*" means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*;
 - "*minute book*" means the collective record of proceedings of *Council*;
 - "*municipal district*" means the municipal district of *Council*;
 - "*notice of motion*" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;
 - "*notice of rescission*" means a notice of motion to rescind a resolution made by Council; and
 - "*written*" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form, *and writing* has a corresponding meaning.
- **3.2** Introductions to Parts, headings and notes are explanatory notes and do not form part of this Chapter. They are provided to assist understanding.

PART B - ELECTION OF MAYOR

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

4. Election of the Mayor

- **4.1** The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of the *Act*, these *Rules* and the Councillor Code of Conduct.
- **4.2** The order of business at the *Council Meeting* to elect the Mayor is to be determined by the Chief Executive Officer. At the commencement of *these Rules* the order will be:
 - 4.2.1** Opening (including Acknowledgement of Country);
 - 4.2.2** Council Commitment;
 - 4.2.3** Apologies;
 - 4.2.4** Oath/Affirmation of office (at the Council Meeting to elect the Mayor following the declaration of results of a general election of Councillors);
 - 4.2.5** Term of Mayor;
 - 4.2.6** Election of Mayor;
 - 4.2.7** Commencement speech by incoming Mayor;
 - 4.2.8** Determination of position of Deputy Mayor;
 - 4.2.9** Election of Deputy Mayor (if position established);
 - 4.2.10** Appointment of Chairs of Special Committees (if any).
- **4.3** The Councillor elected to the position of Mayor may make a commencement speech for up to 10 minutes outlining their vision for the Mayoral term.
- **4.4** A commencement speech may not address matters outside the powers of the *Council*, be derogatory, or be prejudicial to any person or the *Council*.

5. Method of Voting

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

6. Determining the election of the Mayor

- **6.1** The *Chief Executive Officer* must open the meeting at which the Mayor is to be elected, and invite nominations for the office of *Mayor*.
- **6.2** Any nominations for the office of *Mayor* must be:
 - 6.2.1** in writing; and
 - 6.2.2** seconded by another Councillor.

- **6.3** Once nominations for the office of Mayor have been received, the following provisions will govern the election of the *Mayor*:
- 6.3.1** if there is only one nomination, the candidate nominated must be declared to be duly elected;
- 6.3.2** if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
- 6.3.3** in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- 6.3.4** in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- 6.3.5** if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- 6.3.6** in the event of two or more candidates having an equality of votes and one of them having to be declared:
- (a) a defeated candidate; and
 - (b) duly elected
- the declaration will be determined by lot.
- 6.3.7** if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- (a) each candidate will draw one lot;
 - (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
 - (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

7. Role of Deputy Mayor

- **7.1** Council may establish an office of Deputy Mayor.
- **7.2** If Council has established an office of Deputy Mayor, the provisions of the *Act* relating to the office of Deputy Mayor apply.
- **7.3** If Council has not established an office of Deputy Mayor, section 20B of the *Act* applies.

8. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

- **8.1** any office of Deputy Mayor; or
- **8.2** Chair of a *Delegated Committee*
will be regulated by Rules 4-6 (inclusive) of this Chapter, as if the reference to the:
- **8.3** *Chief Executive Officer* is a reference to the *Mayor*; and
- **8.4** *Mayor* is a reference to the Deputy Mayor or the Chair of the *Delegated Committee* (as the case may be).

9. Appointment of Acting Mayor

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

- **9.1** resolving that a specified Councillor be so appointed; or
- **9.2** following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter, at its discretion.

10. Appointment of Council Representatives and Delegates

At a *Council Meeting* held as soon as practicable after the meeting at which the Mayor is elected, and as soon as practicable after a new representative opportunity arises, *Council* must resolve to:

- **10.1** appoint Councillors as members of, or representatives on, committees established by the *Council*; and
- **10.2** appoint Councillors as delegates to external committees and organisations for the ensuing *Council* year.

PART C - MEETINGS PROCEDURE

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

Division 1 - Notices of Meetings and Delivery of Agendas

11. Dates and Times of Meetings Fixed by Council

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

12. Council May Alter Meeting Dates

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

13. Meetings Not Fixed by Council

- **13.1** The Mayor or at least 5 Councillors may by a *written* notice to the Chief Executive Officer call a *Council meeting*.
- **13.2** The notice must specify the date and time of the *Council meeting* and the business to be transacted.
- **13.3** The Chief Executive Officer must convene the *Council meeting* as specified in the notice.
- **13.4** Unless all Councillors who are present unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the *Council meeting*.

14. Notice Of Meeting

- **14.1** A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Council meetings* at least 48 hours before the meeting. Council Officers will make best endeavours to contact any Councillor on leave by telephone to advise that Councillor of the meeting.
- **14.2** Notwithstanding sub-Rule 14.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in writing to continue to give notice of any meeting during the period of his or her absence.
- **14.3** Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:
 - 14.3.1** for meetings which it has fixed by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a newspaper generally circulating in the *municipal district* either at various times throughout the year, or prior to each such *Council meeting*; and
 - 14.3.2** for any meeting by giving notice on its website and may also provide notice by one or more of the following methods:
 - (a) in each of its Customer Service Centres;
 - (b) in at least one newspaper generally circulating in the *municipal district*.
 - (c) by using other electronic media as determined by the Chief Executive Officer.
- **14.4** If urgent or extraordinary circumstances prevent the giving of notice five (5) business days prior to a *Council Meeting*, *Council* will give notice of the meeting on its website and social media channels.

Division 2 - Quorums

15. Quorum

A quorum at a *Council meeting* is an absolute majority, which means the number of Councillors which is greater than half the total number of the Councillors of a *Council*.

16. Inability To Obtain A Quorum

If after 30 minutes from the scheduled starting time of any *Council meeting*, a quorum cannot be obtained:

- **16.1** the meeting will be deemed to have lapsed;
- **16.2** the Mayor must, as soon as practicable after the lapsed meeting, convene another *Council meeting*, the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and
- **16.3** the Chief Executive Officer must give all Councillors *written* notice of the meeting convened by the Mayor.

17. Inability To Maintain A Quorum

- **17.1** If during any *Council meeting*, a quorum cannot be maintained then Rule 16 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- **17.2** Sub-Rule 17.1 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

18. Adjourned Meetings

- **18.1** *Council* may adjourn any meeting to another date or time but cannot in the absence of disorder or a threat to the safety of any Councillor or member of *Council* staff adjourn a meeting in session to another place.
- **18.2** The Chief Executive Officer must give *written* notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- **18.3** If it is impracticable for the notice given under sub-Rule 18.2 to be in *writing*, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

19. Time limits for Meetings

- **19.1** A *Council meeting* must not continue after 10.00pm unless a majority of Councillors present vote in favour of it continuing.
- **19.2** A meeting cannot be continued for more than 30 minutes (or a further 30 minutes, if a majority of Councillors has already voted to continue it for 30 minutes).
- **19.3** In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of sub-Rules 18.2 and 18.3 apply.

20. Cancellation or Postponement of a Meeting

- **20.1** The Chief Executive Officer may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- **20.2** The Chief Executive Officer must present to the next *Council meeting* a written report to *Council* on any exercise of the power conferred by sub-Rule 20.1

Division 3 - Business of Meetings

21. Agenda and the Order Of Business

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

22. Change To Order Of Business

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

23. Accessibility

- **23.1** *Council* will conduct *Council meetings* in a venue that is accessible for the purposes of the *Disability Discrimination Act 1992*.
- **23.2** A Councillor or a member of the public may, at least two (2) business days prior to a *Council meeting*, request that the Chief Executive Officer provide language or communication supports at the meeting.
- **23.3** The Chief Executive Officer will determine the level of language or communication support to be provided, including the use of interpreters or other technologies, to assist a person in accessing the *Council meeting*.

24. Reports of Council Representatives and Delegates

A Councillor who is:

- **24.1** the Chair of an advisory committee, a Community Asset Committee or a Delegated Committee established by the Council;
 - **24.2** appointed by *Council* as a member of a community consultative or reference committee; or
 - **24.3** a delegate, nominee or appointee to an external committee, body, association, group or working party
- shall present to *Council* a written account on the most recent deliberations of the committee, body, association, group or working party at the next practicable *Council meeting*.

25. Urgent Business

- **25.1** If the agenda for an *Council meeting* makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of *Council* and only then if it:
 - 25.1.1** relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
 - 25.1.2** cannot safely or conveniently be deferred until the next *Council meeting*.
- **25.2** A Councillor proposing that a matter be admitted as urgent business must lodge it in writing with the Chief Executive Officer by 4pm on the day of the meeting.
- **25.3** The Chief Executive Officer will advise the Mayor of any matter that the Chief Executive Officer determines appropriate for Council to consider admitting as urgent business.

Division 4 - Motions and Debate

26. Councillors May Propose *Notices Of Motion*

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

27. Notice Of Motion

- **27.1** A notice of motion must be in *writing* signed by a Councillor, and be lodged with or sent to the Chief Executive Officer at least five (5) business days before the *Council meeting* to allow sufficient time for him or her to include the notice of motion in agenda papers for a *Council meeting* and to give each Councillor at least 48 hours notice of such *notice of motion*.
- **27.2** The Councillor proposing a notice of motion must circulate the notice of motion to all Councillors for information before lodging it with the Chief Executive Officer.
- **27.3** Evidence that a notice of motion has been circulated to all Councillors prior to being lodged with the Chief Executive Officer, must be provided to the Chief Executive Officer at the time of lodging the notice of motion.
- **27.4** The Chief Executive Officer must reject any notice of motion which:
 - 27.4.1** is vague or unclear in intention
 - 27.4.2** it is beyond *Council's* power to pass
 - 27.4.3** is identical or substantially similar to a notice of motion or other motion that has been considered by *Council* in the preceding six (6) months;
 - 27.4.4** is defamatory;
 - 27.4.5** may be prejudicial to any person or *Council*, including, without limiting the foregoing, because the proposed notice of motion contains confidential information;
 - 27.4.6** is objectionable in language or nature;
 - 27.4.7** relates to a matter that can be addressed through the operational service request process; or
 - 27.4.8** if passed would result in *Council* otherwise acting invalidly
 but must:
 - 27.4.9** give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 27.4.10** notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.

- **27.5** The Chief Executive Officer may reject any *notice* of motion which relates to a matter that can be addressed through the operational service request process;
- **27.6** The full text of any notice of motion accepted by the Chief Executive Officer must be included in the *agenda*.
- **27.7** The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- **27.8** Except by leave of *Council*, each notice of motion before any meeting must be considered in the order in which they were entered in the notice of motion register.
- **27.9** If a Councillor who has given a notice of motion is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion, provided that Councillor has the consent of the Councillor who gave the notice of motion.
- **27.10** If a notice of motion is not moved at the *Council meeting* at which it is listed, it lapses.
- **27.11** The *Chair*, having lodged a notice of motion, must vacate the *Chair* of the *Council Meeting* to move the *notice of motion* and:
 - 27.11.1** the Deputy Mayor will assume the *Chair*; or
 - 27.11.2** if the Deputy Mayor is not in attendance or there is no Deputy Mayor, *Council* must appoint a temporary *Chair* for the consideration of that item.

28. Chair's Duty

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

- **28.1** defamatory;
- **28.2** objectionable in language or nature;
- **28.3** vague or unclear in intention;
- **28.4** outside the powers of *Council*; or
- **28.5** irrelevant to the item of business on the *agenda* and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

29. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- **29.1** the mover must state the motion without speaking to it;
- **29.2** the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- **29.3** if a motion or an amendment is moved and seconded the *Chair* must ask:
"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
- **29.4** if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- **29.5** if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- **29.6** after the mover has addressed the meeting, the seconder may address the meeting;
- **29.7** after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- **29.8** if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.

30. Right Of Reply

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

31. Moving An Amendment

- **31.1** Subject to sub-Rule 31.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- **31.2** A motion to confirm a previous resolution of *Council* cannot be amended.
- **31.3** An amendment must not be directly opposite to the motion.

32. Who May Propose An Amendment

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

33. How Many Amendments May Be Proposed

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

34. An Amendment Once Carried

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

35. Foreshadowing Motions

- **35.1** 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.
- **35.2** A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- **35.3** The Chief Executive Officer or person taking the minutes of the meeting is not expected to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- **35.4** The *Chair* is not obliged to accept foreshadowed motions.

36. Withdrawal Of Motions

- **36.1** Before any motion is put to the vote, it may be withdrawn by the mover and seconder on resolution by Council.
- **36.2** If the majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

37. Separation Of Motions

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

38. Chair May Separate Motions or Allow Motions to be Moved in a Block

- **38.1** The *Chair* may decide to put any motion to the vote in several parts.
- **38.2** The *Chair* may allow or request Councillors to move “like items” in a block (en bloc).

39. Priority of address

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

40. Motions In Writing

- **40.1** The *Chair* may require that a complex or detailed motion be in writing.
- **40.2** *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

41. Repeating Motion and/or Amendment

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

42. Debate Must Be Relevant To The Motion

- **42.1** Debate must always be relevant to the motion before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- **42.2** If after being requested to confine debate to the motion before the *Chair*, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker to be seated and not speak further in respect of the motion then before the *Chair*.
- **42.3** A speaker to whom a direction has been given under sub-Rule 42.2 must comply with that direction.

43. Speaking Times

- **43.1** A Councillor must not speak longer than the time set out below, unless granted an extension by the *Chair*:
 - 43.1.1** the mover of a motion or an amendment which has been opposed: 5 minutes;
 - 43.1.2** any other Councillor: 3 minutes; and
 - 43.1.3** the mover of a motion exercising a right of reply: 2 minutes.
- **43.2** Only one (1) extension is permitted for each speaker.
- **43.3** Any extended speaking time must not exceed two (2) minutes.

44. Addressing the Meeting

If the *Chair* so determines:

- **44.1** any person addressing the *Chair* must refer to the *Chair* as:
 - 44.1.1** Madam Mayor; or
 - 44.1.2** Mr Mayor; or
 - 44.1.3** Madam Chair; or
 - 44.1.4** Mr Chair
 - 44.1.5** Mayor
 - 44.1.6** Chair
 as the case may be;

- **44.2** all Councillors, other than the *Mayor*, must be addressed as
Cr (name).
- **44.3** all members of *Council* staff, must be addressed as Mr or Ms
..... (name) as appropriate or by their official title.
- **44.4** Except for the *chair*, any councillor or person who addresses the *council meeting* including to move, second, or otherwise speak to a motion must stand and direct all remarks to or through or the *Chair* unless granted an exemption of the *Chair*.

45. Right to Ask Questions

- **45.1** A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the *Chair*.
- **45.2** The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

Division 5 - Procedural Motions

46. Procedural Motions

- **46.1** Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- **46.2** Procedural motions require a seconder.
- **46.3** Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

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

PROCEDURAL MOTIONS TABLE (continued)

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
4. Alter Order of Business	That the item listed as xx on the agenda be considered before/after the item listed as item xy	Any Councillor (including the <i>Chair</i>)	During any debate	Alters the order of business for the meeting	Items are considered in the order as listed in the <i>agenda</i>	No
5. Suspension of Standing Orders	That Standing Orders be suspended to [reason must be provided]	Any Councillor (including the <i>Chair</i>)	During any debate	The rules of the meeting are temporarily suspended for the specific reason given in the motion.	Meeting continues unaffected	No and no debate or decision on any matter. Resolution to resume Standing Orders is the only decision permissible
6. Resumption of Standing Orders	That Standing Orders be resumed	Any Councillor (including the <i>Chair</i>)	When Standing Orders have not been suspended	The temporary suspension of the rules of the meeting is removed.	The meeting cannot continue.	No
7. Consideration of Confidential Matters	That in accordance with sections 3(1) and 66(2)(a) of the <i>Local Government Act 2020</i> the meeting be closed to members of the public for the consideration of item xx which is classified as confidential information in accordance with section 3(1) of the <i>Local Government Act 2020</i> [insert grounds from s 3(1)]	Any Councillor	N/A	Meeting is closed to members of the public on the basis that the matter is classified as confidential information in accordance with section 3(1) of the <i>Local Government Act 2020</i> under 3(1) of the Local [insert grounds from s 3(1)].	Meeting continues to be open to the public.	Yes
8. Reopen the Meeting	That the meeting be reopened to members of the public.	Any Councillor	N/A	The meeting is reopened to members of the public.	The meeting remains closed to members of the public.	No

Division 6 - Rescission Motions

47. Notice of Rescission

- **47.1** A Councillor may propose a notice of rescission provided that the:
 - 47.1.1** Councillor proposing a notice of rescission has circulated the draft notice of motion to all Councillors for information before lodging it with the Chief Executive Officer
 - 47.1.2** Councillor provides evidence to the Chief Executive Officer at the time of lodging the notice of rescission that the notice has been circulated to all Councillors prior to being lodged with the Chief Executive Officer.
 - 47.1.3** *Notice of rescission* has been signed and dated;
 - 47.1.4** resolution proposed to be rescinded has not been acted on;
 - 47.1.5** effect of rescinding the resolution will not place the Council at significant legal, financial or other risk, including non-compliance with statutory obligations and
 - 47.1.6** *notice of rescission* is delivered to the Chief Executive Officer setting out -
 - (a) the resolution to be rescinded; and
 - (b) the meeting and date when the resolution was carried.
- **47.2** A resolution will be deemed to have been acted on if:
 - 47.2.1** its content or substance has been formally communicated in writing by the Chief Executive Officer or a member of *Council* staff authorised by the Chief Executive Officer to a person whose interests are materially affected by it, including by the publishing of the unconfirmed minutes of a *Council Meeting* on the website;
 - or
 - 47.2.2** a statutory process has been commenced
 so as to vest enforceable rights in or obligations on *Council* or any other person.
- **47.3** The Chief Executive Officer or an appropriate member of *Council* staff must defer implementing a resolution which:
 - 47.3.1** has not been acted on; and
 - 47.3.2** is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with Rule 47.1,
 unless deferring implementation of the resolution would:
 - 47.3.3** have the effect of depriving the resolution of efficacy; or
 - 47.3.4** place the *Council* at significant legal, financial or other risk.
- **47.4** The full text of any *notice of rescission* accepted by the Chief Executive Officer must be included in the agenda.
- **47.5** The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the notice of rescission being published in the agenda for the relevant Council Meeting.
- **47.6** The Chief Executive Officer must cause all notice of rescissions to be numbered, dated and entered in the notice of motion register in the order in which they were received.

- **47.7** Except by leave of *Council*, each notice of rescission before any meeting must be considered in the order in which they were received.
- **47.8** If a Councillor who has lodged a *notice of rescission* is absent from the *Council Meeting* at which the *notice of rescission* is to be considered, or fails to move the motion when called upon to do so by the Chair, any other Councillor may move the *notice of rescission*.
- **47.9** If a *notice of rescission* is not moved at the *Council Meeting* at which it is listed, it lapses.
- **47.10** The *Chair*, having lodged a *notice of rescission*, must vacate the *Chair* of the *Council Meeting* to move the *notice of rescission* and: (a) the Deputy Mayor will assume the *Chair*; or (b) if the Deputy Mayor is not in attendance or there is no Deputy Mayor, *Council* must appoint a temporary *Chair* for the consideration of that item.

48. If Lost

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

49. If Not Moved

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

50. May Be Moved By Any Councillor

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

51. When Not Required

- **51.1** Unless sub-Rule 51.2 applies, a motion for rescission is not required where *Council* wishes to change policy.
- **51.2** The following standards apply if *Council* wishes to change policy:
 - 51.2.1** if the policy has been in force in its original or amended form for less than 12 months, a notice of rescission must be presented to *Council*; and
 - 51.2.2** any intention to change a *Council* policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.
- **51.3** Changes to policies designated by the *Council* as Major Policies may only be amended, modified or revoked in accordance with the Governance (Major Policy Consultation) Local Law No. 3 2014.

Division 7 - Points of Order

52. *Chair To Decide*

The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment, other than to confer with the Chief Executive Officer, or a member of *Council* staff authorised by the Chief Executive Officer for that purpose.

53. *Chair May Adjourn To Consider*

- **53.1** The *Chair* may adjourn the meeting to consider a point of order but otherwise must rule on it as soon as it is raised.
- **53.2** All other questions before the meeting are suspended until the point of order is decided.

54. *Dissent From Chair's Ruling*

- **54.1** A Councillor may move that the meeting disagree with the *Chair's* ruling on a point of order, by moving:
"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- **54.2** When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary *Chair* elected by the meeting) must take his or her place.
- **54.3** The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.
- **54.4** The Deputy Mayor or temporary *Chair* must put the motion in the following form:
"That the *Chair's* ruling be dissented from."
- **54.5** If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.
- **54.6** If the vote is in the affirmative, the *Chair* must then resume the *Chair*, reverse or vary (as the case may be) his or her previous ruling and proceed.
- **54.7** The defeat of the *Chair's* ruling is in no way a motion of censure or non- confidence in the *Chair*, and should not be so regarded by the meeting.

55. *Procedure For Point Of Order*

A Councillor raising a point of order must:

- **55.1** state the point of order; and
- **55.2** state any section, Rule, paragraph or provision relevant to the point of order

before resuming his or her seat unless granted an exemption by the *chair*.

56. Valid Points Of Order

A point of order may be raised in relation to:

- **56.1** a motion, which, under Rule 28, or a question which, under Rule 57, should not be accepted by the *Chair*;
- **56.2** a question of procedure;
- **56.3** or any act of disorder.
- **56.4** The *chair* has ultimate discretion not to recognise as valid a point of order that does which does not comply with the Governance Rules or is raised in relation to a matter which is not capable of being a valid.

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

Division 8 - Public Question Time

57. Question Time

- **57.1** There must be a public question time at every *Council meeting* fixed under Rule 11 to enable members of the public to submit questions to *Council*.
- **57.2** Sub-Rule 57.1 does not apply during any period when a meeting is closed to members of the public in accordance with section 66(2) of the *Act*.
- **57.3** Public question time will not exceed 15 minutes in duration, unless by resolution of *Council*, in which case public question may be extended for a further period of 15 minutes.
- **57.4** Public question time may only be extended by resolution of Council
- **57.5** Questions submitted to *Council* must be:
 - 57.5.1** in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and
 - 57.5.2** lodged at the *Council* office (Sunshine) or submitted electronically on *Council's* website 3pm on the day prior to the day of the meeting
- **57.6** The Chief Executive Officer will cause a question submitted in a language other than English to be translated to English.
- **57.7** A question that cannot be translated prior to the commencement of the next meeting will be translated prior to the meeting scheduled after it and the submitter will be notified.
- **57.8** No person may submit more than two questions at any one meeting.

- **57.9** If a person has submitted two questions to a meeting, the second question:
 - 57.9.1** may, at the discretion of the *Chair*, be deferred until all other persons who have asked a question have had their questions asked and answered; or
 - 57.9.2** may not be asked if the time allotted for public question time has expired.
- **57.10** The *Chair* or a member of Council staff nominated by the *Chair* may read to those present at the meeting a question which has been submitted in accordance with this Rule.
- **57.11** Notwithstanding sub-Rule 57.9, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- **57.12** A question may be disallowed by the *Chair* if the *Chair* determines that it:
 - 57.12.1** relates to a matter outside the duties, functions and powers of *Council*;
 - 57.12.2** is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 57.12.3** deals with a subject matter already answered;
 - 57.12.4** is aimed at embarrassing a Councillor or a member of *Council* staff;
 - 57.12.5** relates to personnel matters;
 - 57.12.6** relates to the personal hardship of any resident or ratepayer;
 - 57.12.7** relates to industrial matters;
 - 57.12.8** relates to contractual matters;
 - 57.12.9** relates to proposed developments;
 - 57.12.10** relates to legal advice;
 - 57.12.11** relates to matters affecting the security of *Council* property; or
 - 57.12.12** relates to any other matter which *Council* considers would prejudice *Council* or any person.
- **57.13** Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- **57.14** All questions and answers must be as brief as possible, and no discussion may be allowed other than by *Councillors* for the purposes of clarification.
- **57.15** Like questions may be grouped together and a single answer provided.
- **57.16** The *Chair* may nominate a Councillor or the Chief Executive Officer to respond to a question.
- **57.17** A Councillor or the Chief Executive Officer may require a question to be put on notice. A *written* copy of the answer will be published in the minutes of the meeting.
- **57.18** A Councillor or the Chief Executive Officer may advise *Council* that it is his or her opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

Division 9 - Petitions and Joint Letters

58. Petitions and Joint Letters

- **58.1** Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next *Council meeting* after that at which it has been presented.
- **58.2** It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- **58.3** Every Councillor presenting a petition or joint letter to *Council* must:
 - 58.3.1** write or otherwise record his or her name at the beginning of the petition or joint letter; and
 - 58.3.2** confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it request.
- **58.4** Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 12 people.
- **58.5** Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- **58.6** Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- **58.7** Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- **58.8** If a petition, joint letter, memorial or other like application relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.

Division 10 - Voting

59. How Motion Determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.

60. Silence

Voting must take place in silence.

61. Recount

The *Chair* may direct that a vote be recounted to satisfy himself or herself of the result.

62. Casting Vote

In the event of a tied vote, the *Chair* must exercise a casting vote.

63. By Show Of Hands

Voting on any matter is by show of hands.

64. Procedure For A Division

- **64.1** Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- **64.2** When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- **64.3** When a division is called for, the *Chair* must:
 - 64.3.1** first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The *Chair* must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and
 - 64.3.2** then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

65. No Discussion Once Declared

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

- **65.1** a Councillor requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- **65.2** foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

For example, Rule 65 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, Rule 65 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.

Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 65.2, to discussion about a positive motion where a resolution has just been rescinded.

Division 11 - Minutes

The purpose of the minutes is to represent an accurate representation of proceedings at that record of the meeting;

66. Confirmation of Minutes

- **66.1** At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
 - 66.1.1** a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
 - 66.1.2** if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - 66.1.3** if a Councillor indicates opposition to the minutes:
 - (a) he or she must specify the item(s) to which he or she objects;
 - (b) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
 - (c) the Councillor objecting must move accordingly without speaking to the motion;
 - (d) the motion must be seconded;
 - (e) the *Chair* must ask:
"Is the motion opposed?"
 - (f) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in sub-Rule 66.1.3 (k);
 - (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
 - (h) after the mover has addressed the meeting, the seconder may address the meeting;
 - (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
 - (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
 - (k) the *Chair* must, after all objections have been dealt with, ultimately ask:
"The question is that the minutes be confirmed" or
"The question is that the minutes, as amended, be confirmed",
and he or she must put the question to the vote accordingly;
 - 66.1.4** a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
 - 66.1.5** the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
 - 66.1.6** unless otherwise resolved or required by law, minutes of a Delegated Committee requiring confirmation by *Council* must not be available to the public until confirmed by *Council*.

67. No Debate on Confirmation Of Minutes

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

68. Deferral Of Confirmation Of Minutes

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

69. Form and Availability of Minutes

- **69.1** The Chief Executive Officer (or other person authorised by the Chief Executive Officer to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:
 - 69.1.1** the date, place, time and nature of the meeting;
 - 69.1.2** the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - 69.1.3** the names of the members of *Council* staff present who are not part of the gallery;
 - 69.1.4** any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5;
 - 69.1.5** arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - 69.1.6** each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - 69.1.7** the vote cast by each Councillor upon a division;
 - 69.1.8** the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
 - 69.1.9** questions upon notice;
 - 69.1.10** the failure of a quorum;
 - 69.1.11** any adjournment of the meeting and the reasons for that adjournment; and
 - 69.1.12** the time at which standing orders were suspended and resumed.
- **69.2** The Chief Executive Officer must ensure that the minutes of any *Council meeting* are made available to:
 - 69.2.1** Councillors within three (3) business days; and
 - 69.2.2** members of the public, by publishing on the website within four (4) business days.
- **69.3** Nothing in sub-Rule 69.2 requires *Council* or the Chief Executive Officer to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.

70. Recording of Meetings

- **70.1** A person must not, without the prior approval of the *Chair*, operate any audio or visual recording equipment at any *Council Meeting*.
- **70.2** Nothing in sub-Rule 70.1 applies to:
 - 70.2.1** any member of *Council* staff operating any recording device for the purpose of preparing draft minutes of the *Council Meeting*; or
 - 70.2.2** any security camera installed in any place in which a *Council Meeting* is held.
- **70.3** If the *Chair* gives approval under sub-Rule 70.1, the *Chair* must as soon as practicable after opening the *Council Meeting*, announce the giving of approval and advise those who are in attendance that their images and/or voices are likely to be recorded during the course of the *Council Meeting*.

Division 12 - Behaviour

71. Public Addressing The Meeting

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

72. Chair May Remove

The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule 71.2.

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

73. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 18.2 and 18.3 apply.

74. Removal from Chamber

The *Chair*, or *Council* in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from the gallery under Rule 76.

75. Offences

- **75.1** It is an offence for:
 - 75.1.1** a person to use the common seal or any device resembling the common seal without the authority of *Council*;
Penalty: 10 penalty units
 - 75.1.2** a person to inscribe upon a petition a name or signature purporting to be the name or signature of another person;
Penalty: 5 penalty units
 - 75.1.3** a person to whom sub-Rule 70.1 applies to act contrary to that sub-clause, by operating any audio or visual recording equipment at a *Council Meeting* without the prior approval of the *Chair*;
Penalty: 5 penalty units
 - 75.1.4** a Councillor to not withdraw an expression considered by the *Chair* to be offensive or disorderly, and apologise when called on twice by the *Chair* to do so;
Penalty: 5 penalty units
 - 75.1.5** any person, not being a Councillor, who is guilty of any improper or disorderly conduct, to not leave the Chamber when requested by the *Chair* to do so;
Penalty: 5 penalty units
 - 75.1.6** any person to fail to comply with a direction of the *Chair* in relation to the conduct of the meeting and the maintenance of order;
Penalty: 2 penalty units

The penalty units set out in this clause represent the maximum amount which a Court can order a person to pay. Even then, it requires a prosecution to be brought against the person in the Magistrates' Court. An alternative to prosecution is the infringement notice procedure outlined in sub-Rule 75.2.

- **75.2** An authorised officer may, as an alternative to prosecution, issue an infringement notice in accordance with the *Infringements Act 2006* and associated regulations to any person who has committed an offence against this Local Law.
- **75.3** The fixed penalty in respect of an infringement notice served on a person is the amount set out in Schedule 1 to *these Rules*.
- **75.4** Any infringement notice issued to a person under this Local Law may be served on or given to the person by:
 - 75.4.1** delivering the notice to the person;
 - 75.4.2** leaving the notice at his or her usual or last known place of residence or business with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - 75.4.3** sending the notice by registered post addressed to the person at his or her last known place of residence or business.
- **75.5** The relevant authorised officer may withdraw the infringement notice within 28 days after its date by sending a notice to the person on whom the infringement notice was served.
- **75.6** If the person pays the penalty before the infringement notice is withdrawn, the person is entitled to a refund of the penalty.

- **75.7** If the person pays the penalty within the time specified in the notice or, if the relevant authorised officer allows, before a summons is served on the person in respect of the infringement, the following provisions apply:
 - 75.7.1** further proceedings for an offence are not to be taken against the person; and
 - 75.7.2** there is to be no conviction recorded against the person for the infringement.
- **75.8** A penalty paid under this clause must be applied as if the person who paid it was convicted of the infringement in a Magistrates' Court on the information of a person authorised by *Council* to bring proceedings on its behalf.
- **75.9** If a person served with an infringement notice has not paid the penalty within the time specified in the notice or any extension of that time or if an infringement notice is not withdrawn proceedings may still be taken or continued to prosecute the alleged.
- **75.10** To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- **75.11** A person issued with an infringement notice is entitled defend any prosecution in court.

Division 13 - Additional Duties of Chair

76. The *Chair's* Duties And Discretions

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

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

Division 14 - Suspension of Standing Orders

77. Suspension of Standing Orders

- **77.1** To expedite the business of a meeting, *Council* may suspend standing orders.

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

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

- **77.2** The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:
"That standing order be suspended to enable discussion on....."
- **77.3** No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- **77.4** Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
"That standing orders be resumed."

Division 15 - Miscellaneous

78. Meetings Conducted Remotely

If:

- **78.1** by law a meeting may be conducted electronically; and
- **78.2** *Council* decides that a meeting is to be conducted electronically, the *Chair* may, on Council resolution, change the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

79. Procedure not provided in this Chapter

In all cases not specifically provided for by this Local Law, *Council* may determine the procedure to apply by resolution.

80. Policies and Guidelines

Council may adopt any policies or guidelines from time to time for the purpose of exercising any discretions conferred by *these Rules*.

81. Council's Common Seal

- **81.1** The Chief Executive Officer must ensure the security of *Council's* common seal at all times.
- **81.2** *Council* may resolve to affix the common seal to a document.
- **81.3** The affixing of *Council's* common seal to any document must be attested to by the signatures of both:
 - 81.3.1** a Councillor; and
 - 81.3.2** the Chief Executive Officer or, in the absence of the Chief Executive Officer, a member of *Council* staff delegated this function by *Council*.
- **81.4** Where *Council* authorises the common seal to be affixed to any document, the Chief Executive Officer must cause the sealed document to be allocated a seal register number.
- **81.5** Where the common seal is affixed to a document on the authority of *Council*, the sealing clause must contain the following words:
 The Common Seal of BRIMBANK CITY COUNCIL
 was hereunto affixed in the presence of:

 Mayor/Councillor

 Chief Executive Officer

 Date:
- **81.6** A person must not use the common seal or any device resembling the common seal without the authority of *Council*.

CHAPTER 3: MEETING PROCEDURE FOR DELEGATED COMMITTEES

1. Meeting Procedure Generally

If *Council* establishes a **Delegated Committee**:

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

2. Meeting Procedure Can Be Varied

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

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

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

CHAPTER 4: MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

1. Introduction

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

2. Meeting Procedure

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

CHAPTER 5: DISCLOSURE OF CONFLICTS OF INTEREST

1. Introduction

The following Rules in this Chapter apply only upon Division 1A of Part 4 of the *Local Government Act 1989* being repealed*.

2. Definition

In this Chapter:

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

3. Disclosure of a Conflict of Interest at a Council Meeting

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

- **3.1** is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Council meeting* immediately before the matter is considered; or
- **3.2** intends to be present must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:
 - 3.2.1** advising of the conflict of interest;
 - 3.2.2** explaining the nature of the conflict of interest; and
 - 3.2.3** detailing, if the nature of the conflict of interest involves a Councillor’s relationship with or a gift from another person, the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (c) nature of that other person’s interest in the matter,

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

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

4. Disclosure of Conflict of Interest at a Delegated Committee Meeting

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

- **4.1** is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting immediately before the matter is considered; or

* At the time of making these Rules the date on which Division 1A of Part 4 of the *Local Government Act 1989* is expected to be repealed is 24 October 2020.

- **4.2** intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:
 - 4.2.1** advising of the conflict of interest;
 - 4.2.2** explaining the nature of the conflict of interest; and
 - 4.2.3** detailing, if the nature of the conflict of interest involves a member of a Delegated Committee's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

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

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

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

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

- **5.1** is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee meeting immediately before the matter is considered; or
- **5.2** intends to present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:
 - 5.2.1** advising of the conflict of interest;
 - 5.2.2** explaining the nature of the conflict of interest; and
 - 5.2.3** detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - 5.2.4** nature of that other person's interest in the matter,

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

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

6. Disclosure at a Meeting Conducted Under the Auspices of Council

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

- **6.1** disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;
- **6.2** absent himself or herself from any discussion of the matter; and
- **6.3** as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

7. Disclosure by Members of Council Staff Preparing Reports for Meetings

- **7.1** A member of *Council* staff who, in his or her capacity as a member of *Council* staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:
 - 7.1.1** *Council* meeting;
 - 7.1.2** Delegated Committee meeting;
 - 7.1.3** Community Asset Committee meetingmust, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer disclosing the conflict of interest and explaining the nature of the conflict of interest.
- **7.2** The Chief Executive Officer must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.
- **7.3** If the member of Council staff referred to in sub-Rule 7.1 is the Chief Executive Officer:
 - 7.3.1** the written notice referred to in sub-Rule 7.1 must be given to the *Mayor*; and
 - 7.3.2** the obligation imposed by sub-Rule 7.2 may be discharged by any other member of *Council* staff responsible for the preparation of the Report.

8. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power

- **8.1** A member of *Council* staff who has a conflict of interest in a matter requiring a decision to be made by the member of *Council* staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.
- **8.2** If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

9. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function

- **9.1** A member of *Council* staff who has a conflict of interest in a matter requiring a statutory function to be performed under an Act by the member of *Council* staff must, upon becoming aware of the conflict of interest, immediately provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest.
- **9.2** If the member of *Council* staff referred to in sub-Rule 9.1 is the Chief Executive Officer the written notice must be given to the Mayor.

10. Retention of Written Notices

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

CHAPTER 6: MISCELLANEOUS

1. Informal Meetings of Councillors

- If there is a meeting of Councillors that:
 - 1.1 is scheduled or planned for the purpose of discussing the business of *Council* or briefing Councillors;
 - 1.2 is attended by at least one member of *Council* staff; and
 - 1.3 is not a *Council meeting*, Delegated Committee meeting or Community Asset Committee meetingthe *Chief Executive Officer* must ensure that a summary of the matters discussed at the meeting are:
 - (a) tabled at the next convenient *Council meeting*; and
 - (b) recorded in the minutes of that *Council meeting*.

2. Confidential Information

- 2.1 If, 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.
- 2.2 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.

APPENDIX: CONDUCT DURING ELECTIONS POLICY

Conduct During Elections Policy 2019



Conduct During Elections Policy 2019

1. Purpose

The Councillor Code of Conduct Major Policy (Code) is the overarching policy for this policy. The purpose of this policy is to ensure the transparency and accountability of the Councillors, Council officers, and candidates, during an election period. The policy complies with the *Local Government Act 1989*, 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.

2. Scope

The role of Councillor must be kept separate from the role that a person may take as a candidate (or prospective candidate) in any election. A Councillor must avoid any conflicts - or appearance of conflicts - between the two roles, and endeavour to demonstrate they understand the separation between the two roles.

Prior to the holding of a municipal election, Council enters an 'election' or 'caretaker' period, and must avoid taking actions and/or making decisions which could be seen to be influencing voters, or which will have a significant impact on an incoming Council. The election period extends for 32 days - from the last day nominations for the election can be received, until 6pm on election day.

The *Local Government Act 1989 (the Act)* specifically prohibits Council from publishing or distributing electoral matter or making major policy decisions during the election period. These restrictions are the minimum legislative requirements. This policy sets other restrictions for the use of Council resources and decision making for electioneering purposes at any time, for any local, board (or equivalent), state or federal election, including:

- Decisions made by Council or a person acting under delegation during an election period
- Council's publications, promotion, media, consultations and events during an election period
- The use of Council resources, including venues, during an election period
- Access to Council information by Councillors and candidates during an election period.

3. Definition of terms being used

Caretaker period, also known as the **election period**, means the 32 day statutory time period prior to the date of the general municipal election.

Certification means attest in writing, that no electoral matter is contained in, and approval of, material for publication, by the Chief Executive Officer during the caretaker period.

Electioneering means any action, statement and/or publication that contains material directly related to, or likely to influence, a Councillor's re-election, or a candidate's election.

Conduct During Elections Policy 2019

Election period, also known as the **caretaker period**, means the 32 day statutory time period prior to the date of the general municipal election.

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

Electoral matter means any 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. Electoral matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to or comment on:

- The election, or
- A candidate in the election, or
- An issue submitted to, or otherwise before, the voters in an election.

Inappropriate decision means any decision:

- That would affect voting in an election
- That could reasonably be made after the election.

Major policy decision means any decision:

- Relating to the employment, remuneration or termination of a Chief Executive Officer under section 94 of *the Act*, other than a decision to appoint an acting Chief Executive Officer.
- Regarding entering into a contract with a total value exceeding \$150,000 for goods and services, and \$200,000 for works contracts, or, one per cent of Council's rates revenue (based on the preceding financial year), whichever is higher.
- Regarding exercising entrepreneurial powers for proposals exceeding \$100,000, or over one per cent of Council's rates and charges revenue (from the preceding financial year), whichever is higher.

Nominated Candidate means any person who nominates as a candidate for a state or federal election.

Prospective Candidate means any person who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as a candidate for a local, state or federal election.

Public consultation means a process that involves an invitation/s to individuals, groups, organisations or the community in general, to comment on an issue, proposed action, or proposed policy.

Publish means publish by any means, whether in hard copy or electronically, including publication on the internet.

Returning Officer means the person appointed in writing by the Victorian Electoral Commission to conduct the election.

4. Responsibility

The Governance department is responsible for the administration of this policy. Any issues or items requiring clarification will be referred to the Chief Executive Officer, who will make a determination with respect to matters of policy interpretation or implementation.

5. Legislation

This policy is in accordance with *the Act* and the *Victorian Electoral Act 2002*.

5.1 Legislative Context

Under Section 93B of *the Act*, a council must prepare, adopt and maintain an election period policy in relation to procedures to be applied by council during the election period for a general election. The policy must be reviewed not later than twelve months from the commencement of an election period.

An election period policy must include:

- Procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election
- Limits on public consultation and the scheduling of Council events
- Procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

Inappropriate decisions made by a Council during an election period includes:

- Decisions that would affect voting in an election
- Decisions that could reasonably be made after the election.

Section 55 of *the Act* imposes limitations on Council publications during a local government general election period (prohibiting 'electoral matter' which is intended or likely to affect voting in an election). 55D of *the Act* states a council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer. This does not include the publication of any document published before the commencement of the election period, or required to be published under any Act or Regulation.

Section 93A of *the Act* sets out major policy decisions that must not be made during a general election period:

- The employment, remuneration or termination of the Chief Executive Officer
- Contracts exceeding specified values (\$150,000 for goods and services, and \$200,000 for works contracts, or one per cent of the Council's revenue – whichever is higher)
- Entrepreneurial powers exceeding \$100,000, or one per cent of the Council's rates and charges revenue (from the preceding financial year), whichever is higher).

Section 76D of *the Act* prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in their role, to gain an advantage, or disadvantage another (misuse of position).

Conduct During Elections Policy 2019

6. Policy**6.1 Policy Statement**

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

6.2 Candidacy

In accordance with the Code, 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.

6.2.1 State and Federal Government Elections

Councillors will ensure there is a 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.

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.

A Councillor who is a Prospective Candidate should declare their intended candidacy at a meeting of the Council as soon as practicable after notifying the Chief Executive Officer.

A Councillor who nominates as a candidate for a state or federal election (a 'Nominated Candidate') should take a leave of absence from their duties as a Councillor for at least the period from the date of nomination as a candidate, until the close of voting for a state or federal election. The Council will approve all requests for leave of absence by a Prospective Candidate or Nominated Candidate.

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 sub-clauses 6.3 to 6.7 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.

6.2.2 Local Government Elections

Councillors will ensure there is a 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 Local Government election.

The election/caretaker period for Council elections is defined by *the Act*. There are restrictions and limitations on Council's decisions that may be made during this period.

Conduct During Elections Policy 2019

In addition, there are requirements for Councillors and Council officers to ensure Council resources are not used, or perceived to be used, in support of any candidate or political party.

The Chief Executive Officer will, as far as practicable, plan for significant and major policy matters to be considered well in advance of the election period, and ensure Council officers are aware of their obligations during an election period.

6.3 Council Decisions

6.3.1 Council Decisions and Meetings

Council will not consider or make any decisions during an election period that would, or could be perceived to, affect voting in an election, or unfairly commit the incoming Council to a major course of action, or could reasonably be made after the election.

Council officers or special committees with delegated decision making authority are also not permitted to make any decisions that may be perceived to affect the outcome of an election or unfairly commit the incoming Council.

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 reports to complete the Council's term of office, for example, assemblies of Council, and delegate's reports. Public Question Time will be suspended during the election period. A Notice of Motion submitted by a Councillor during an election period, that relates to an electoral matter, will not be permitted. If a Notice of Motion is admitted on the agenda, the Chief Executive Officer will include an election period policy statement.

Should Council consider there are extraordinary circumstances where the Brimbank community would be significantly disadvantaged by Council not making a particular major policy decision, Council will, by resolution, seek an exemption from the Minister for Local Government in accordance with section 93A(2) of *the Act*.

6.3.2 Caretaker Statement

During the election period, the Chief Executive Officer will ensure a caretaker statement is included in any report submitted to a Council or a Special Committee Meeting for consideration.

The caretaker statement will specify one of the following:

- "The recommended decision is not a major policy decision or inappropriate decision, as defined in section 93A of the *Local Government Act 1989*."
- "The recommended decision is to seek an exemption from the Minister because the matter requires a major policy decision within the meaning of section 93A of the *Local Government Act 1989*".
- "The recommended decision is a major policy decision, as defined in section 93A of the *Local Government Act 1989*, but an extraordinary circumstances exemption was granted by the Minister for Local Government on [insert date]".

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

6.3.3. Considerations for Officers with Delegated Authority

Conduct During Elections Policy 2019

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

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

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

6.4 Access to Council Information

6.4.1 Request for Council Information

As Councillors continue to perform their elected role during the election period (Council elections), they will continue to receive all necessary information to fulfil that role. Councillor candidates will be treated the same as other candidates in relation to access to Council information. Councillors may continue to access Council information and public documents during the election period, but only as it is necessary for them to perform their current role and functions.

Information to be provided to Councillors will include information that is publicly and freely available, such as Council Plans, Annual Reports, strategies, policies etc.

Briefing papers in relation to the Annual Report and administrative reports to be decided at the Council Meeting or Special Committee Meeting during the election period, will also be provided to Councillors.

All requests received by Council officers for information about Council's existing projects, programs or services will be responded to in a business as usual manner. This means up to date responses will be provided about progress on Council projects or services to Councillors, candidates and members of the community.

A 'business as usual' approach does not include extensive research or analysis involving significant Council resources, or providing a level of information which would not normally be available.

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

Applications for information under Freedom of Information legislation will be dealt with in the usual manner.

6.4.2 Request for Information Register

During the election period, a request for information register will be maintained by Council's Governance department. This register will be a public document that records all requests relating to electoral matters, routine and non-routine requests for information by Councillors and candidates, and a summary of the response provided.

Conduct During Elections Policy 2019

Council officers are required to discuss requests for information by Councillors and candidates with their Director to determine an appropriate response, prior to providing the information (or declining to provide the information). Council officers will contact the Governance department for inclusion of the request into the register.

Requests for information that require significant resources to be devoted to a response, or which might be perceived to support an election campaign, will be referred to the Chief Executive Officer or delegate.

The register will be published on Council's website for the duration of the election period, including a summary of response and/or link to any requested public document.

6.5 Council Media, Digital Communications, and Publications

6.5.1 Certification of Publications by the Chief Executive Officer

Section 55D of *the Act* specifies restrictions on Council publications, including electronic publications, during an election period. The Chief Executive Officer must certify a Council publication does not include 'electoral matter' before it can be issued. The Chief Executive Officer can authorise an officer/s to vet material, however only the Chief Executive Officer can formally certify material for publication (this function may not be delegated).

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, social media posts, 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 department for vetting for electoral matter. Once vetted, the publication will then be submitted to the Chief Executive Officer for certification.

Appendix 1 contains the certification memorandum required for a publication during the election period.

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

6.5.2 Council Spokesperson

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

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

Council officers will not make any public statement that could be construed as influencing the election. This will be an offense under the Employee Code of Conduct. This does not include statements of clarification on an issue certified by the Chief Executive Officer or delegate.

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

6.5.3 Annual Report

Council's Annual Report is required to be prepared and submitted to the Minister for Local Government by the end of September. As it is a statutory requirement, it does not require certification by the Chief Executive Officer.

The Annual Report must not include material that is considered electioneering or electoral matter, or that publicises the attributes or achievements of individual Councillors. Information referring to specific Councillors will be limited to names, titles, contact details, membership of special committees and other bodies to which they have been appointed by Council. A Mayor's Message will be included and will be restricted to general Council business and not specific achievements of elected representatives. The Chief Executive Officer will determine the appropriate content for an Annual Report produced in an election period.

Council will print and distribute the same number of copies during an election period as for the year preceding.

6.5.4 Council Websites (including Brimbank Buzz) and Social Media sites

During the election period, information about Councillors published on Council websites will only include names, contact details and titles and any information contained in the Annual Report produced in that period.

The Agenda and Minutes for Council and Special Committee Meetings during an election period, will be published on Council's website during the election period.

No new material will be published on Council's websites or social media sites (such as Facebook, Twitter and YouTube) during an election period. A statement will be published on the sites advising that Council is in caretaker period and no new information will be published until after the election. It will also state that any information on the site was published before the election period, and direct people to contact customer service if they have any issues/requests.

Council's websites will be reviewed before the election period to identify and temporarily remove anything that might reasonably influence the election.

6.5.5 Internal Publications/Intranet

The publication of internal newsletters and intranet information, including instruction for the election period, policy, and protocols, is permitted and will continue as normal during an election period. The promotion of Councillors, candidates, or political parties in internal publications is not permitted.

6.5.6 Councillor-Issued Communications

Councillors, like other candidates, are permitted to issue their own communications, in any forum, provided they do not use Council resources. This includes Council owned devices, Councillor email address, Council's social media, Council letterhead, logo, stationery and photocopiers. Councillors and candidates must make it clear that the views expressed are personal views only, and not the views of the Council.

Councillors are not permitted to comment in an official capacity about an issue raised by the media during the election period. However, if media outlets contact Councillors, or candidates, directly for comment about an issue during the election period, Councillors and candidates are able to comment, provided they make it known to media outlets that the views expressed are personal views only, and not the views of Council.

Conduct During Elections Policy 2019

Council officers cannot provide media advice or assistance to Councillors during an election period.

6.6 Council Consultation and Events

6.6.1 Public Meetings and Events

Council will not undertake any community consultations or events during the election period. This includes promotion of upcoming consultations or events held after the election period. Councillors may continue to attend community events, but no formal role will be accepted, or support provided by Council officers (for example, a speech).

Existing Council programs and services for the community will continue as business as usual, but new promotional activity is not permitted during an election period.

6.6.2 Speeches For External Events

Council resources will not be used to prepare speeches, or support roles, for Councillors for community and external events during the election period.

6.6.3 Community Consultation

Community consultation includes a process that involves an invitation/s to individuals, groups, organisations or the community generally, to comment on an issue, proposed action or proposed policy.

Public consultation will be avoided during the caretaker period, with the exception of consultation required under the *Planning and Environment Act 1987*.

6.6.4 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. 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 apply for a permit, 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. The Brimbank Planning Scheme sets out the requirements relating to display of candidacy information on private land in the City of Brimbank.

6.7 Use of Council Resources

Councillors will have access to the resources necessary to fulfil their elected roles, in accordance with the Code.

Council resources – including (but not limited to) ipads, laptops, iphones, Councillor offices, vehicles, hospitality, equipment, email, mobile phones and stationary - will remain available for Councillors to fulfil their elected role during an election period. These resources must not be

Conduct During Elections Policy 2019

used for any election purposes, or used in a manner that could be perceived as supporting or being connected with a candidate's election campaign.

No Council officers will undertake any tasks connected directly or indirectly with a candidate's election campaign.

6.7.1 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.

6.7.2 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.

6.7.3 Council Branding and Stationary

No Council branding, logo or letterhead can be used for, or linked in any way to, a candidate's election campaign.

Use of Council logos, branding and stationery – hardcopy or electronic – is permitted for normal Council business only.

6.7.4 Support Expense Reimbursement

Reimbursements of Councillor support expenses will be in accordance with the Code, as amended from time to time. Reimbursements 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. In the case of claims that cover a combination of Council and electoral business, the Chief Executive Officer may approve a partial reimbursement to cover Council activities.

6.7.5 Councillor Correspondence

General correspondence addressed to Councillors will be answered in a usual manner. However, Councillors will only sign the necessary minimum correspondence during the election period, and correspondence relating to significant, sensitive or controversial matters will be referred to the Chief Executive Officer.

7. Related Documents

- *Local Government Act 1989*
- *Victorian Electoral Act 2002*
- Councillor Code of Conduct Major Policy
- Employee Code of Conduct

Conduct During Elections Policy 2019

- Brimbank Planning Scheme
- Reforms Arising From the Local Government Amendment (Improved Governance) Act 2015
– A Guide for Councils by Local Government Victoria

History of Amendment

Rev	Review date	Reason for amendment	Next review date
	23/02/2016	New legislative requirements	1/09/2019
A	17/09/2019	Review	1/09/2023
Approved by council:		Yes	Date approved by council: 18 August 2020

Brimbank City Council

Telephone 9249 4000

Email info@brimbank.vic.gov.au

Post PO Box 70, Sunshine, VIC 3020

Hearing or speech impaired?

- TTY dial 133 677
- Speak & Listen 1300 555 727
- www.relayservice.gov.au, then enter 03 9249 4000



Find us on Facebook, Twitter and YouTube



www.facebook.com/brimbankcouncil



www.twitter.com/brimbankcouncil



www.youtube.com/brimbankcitycouncil



131 450

Local call costs apply



Brimbank Chat

brimbank.vic.gov.au

www.brimbank.vic.gov.au