

Brimbank Governance Rules

September 2023

BRIMBANK GOVERNANCE RULES

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 19 September 2023.

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
Appendix 1	Conduct During Election Period Policy

Definitions and Notes

Act means the *Local Government Act 2020*.

Agenda means the notice of a meeting setting out the business to be transacted at the meeting.

Attend, Attending and In Attendance include attend, attending and in attendance by electronic means.

Business Day means a day other than a Saturday, Sunday or day which is a public holiday in the *municipal district*.

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*.

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*.

Instrument of Delegation means an instrument of delegation made by the *Chief Executive Officer* under section 47(1)(b) of the *Act*.

Mayor means the Mayor of *Council*.

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 3 (whether such a meeting is known as a 'Councillor Briefing' or by some other name).

Member of a Delegated Committee includes a Councillor who is a member of a *Delegated Committee*.

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*.

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 *Council*.

These Rules means these Governance Rules.

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

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.

3. Informal Meetings of Councillors

If there is a meeting of Councillors that:

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

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

- (i) tabled at the next convenient *Council meeting*; and
- (ii) recorded in the minutes of that *Council meeting*.

4. Confidential Information

- 4.1 If the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the *Act*, they may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 4.2 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.

Chapter 2 – Meeting Procedure for Council Meetings

Chapter 2 Meeting Procedure	1
1. Election of the <i>Mayor</i>	1
2. Method of Voting	1
3. Determining the election of the <i>Mayor</i>	1
4. Role of Deputy Mayor	3
5. Election of Deputy Mayor and Chairs of Delegated Committees	4
6. Appointment of Acting Mayor	4
7. Appointment of Council Representatives and Delegates	4
Meetings Procedure	5
Notices of Meetings and Delivery of Agendas	5
8. Dates and Times of Meetings Fixed by <i>Council</i>	5
9. <i>Council</i> May Alter Meeting Dates	5
10. Meetings Not Fixed by <i>Council</i> (Unscheduled or Special Meetings)	5
11. Notice Of Meeting	5
Quorums.....	6
12. Inability To Obtain A Quorum	6
13. Inability To Maintain A Quorum	6
14. Adjourned Meetings.....	6
15. Time limits for Meetings.....	7
16. Cancellation or Postponement of a Meeting	7
Business of Meetings.....	7
17. Agenda and the Order Of Business.....	7
18. Change To Order Of Business	7
19. Accessibility	7
20. Reports of Council Representatives and Delegates.....	7
21. Urgent Business	8
Motions and Debate	8
22. Councillors May Propose <i>Notices Of Motion</i>	8
23. Notice Of Motion	8
24. Congratulations and Condolences	10
25. Chair's Duty	10
26. Introducing A Motion or an Amendment.....	10
27. Right Of Reply	11
28. Moving An Amendment	11
29. Who May Propose An Amendment	11
30. How Many Amendments May Be Proposed.....	11
31. An Amendment Once Carried	11
32. Foreshadowing Motions.....	11
33. Withdrawal Of Motions.....	12
34. Separation Of Motions	12
35. <i>Chair</i> May Separate Motions or Allow Motions to be Moved in a Block.....	12
36. Deferral Motions	12
37. Priority of address.....	12
38. Motions In Writing	12
39. Repeating Motion and/or Amendment.....	12
40. Debate Must Be Relevant To The Motion	12
41. Speaking Times	13
42. Addressing the Meeting	13
43. Right to Ask Questions	13
Procedural Motions	14
44. Procedural Motions.....	14
Rescission Motions.....	19

45.	Rescission Motions	19
46.	If Lost	20
47.	If Not Moved	20
48.	May Be Moved By Any Councillor	20
49.	When Not Required	20
Points of Order		21
50.	<i>Chair</i> To Decide	21
51.	<i>Chair</i> May Adjourn To Consider	21
52.	Dissent From <i>Chair's</i> Ruling	21
53.	Procedure For Point Of Order	21
54.	Valid Points Of Order	22
Public Question Time		22
55.	Question Time	22
Petitions and Joint Letters		24
56.	Petitions and Joint Letters	24
Voting.....		25
57.	How Motion Determined	25
58.	Silence	25
59.	Recount	25
60.	Casting Vote	25
61.	How Votes are Cast.....	25
62.	Procedure For A Division.....	25
63.	No Discussion Once Declared.....	26
Minutes		26
64.	Confirmation of Minutes	26
65.	No Debate on Confirmation Of Minutes.....	28
66.	Deferral Of Confirmation Of Minutes	28
67.	Form and Availability of Minutes.....	28
68.	Recording of Meetings.....	29
Behaviour		29
69.	Public Addressing The Meeting.....	29
70.	<i>Chair</i> May Remove	29
71.	<i>Chair</i> may adjourn disorderly meeting.....	30
72.	Removal from Chamber.....	30
Additional Duties of <i>Chair</i>		30
73.	The <i>Chair's</i> Duties And Discretions	30
Suspension of Standing Orders		30
74.	Suspension of Standing Orders.....	30
75.	Physical and Remote Attendance	31
76.	Meetings Conducted Remotely	32
Miscellaneous		32
77.	Criticism of members of Council staff	32
78.	Procedure not provided in this Chapter	32
79.	Policies and Guidelines	32

Chapter 2 Meeting Procedure

Election of the Mayor

1. Election of the *Mayor*

- 1.1 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.
- 1.2 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:
 - 1.2.1 Opening (including Acknowledgement of Country);
 - 1.2.2 Council Commitment;
 - 1.2.3 Apologies;
 - 1.2.4 Oath/Affirmation of office (at the *Council meeting* to elect the *Mayor* following the declaration of results of a general election of Councillors);
 - 1.2.5 Term of *Mayor*;
 - 1.2.6 Election of *Mayor*;
 - 1.2.7 Commencement speech by incoming *Mayor*;
 - 1.2.8 Determination of position of Deputy Mayor;
 - 1.2.9 Election of Deputy Mayor (if position established); and
 - 1.2.10 Appointment of Chairs of *Delegated Committees* (if any).
- 1.3 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.
- 1.4 A commencement speech must not address matters outside the powers of *Council* or be derogatory about or prejudicial to any person or *Council* itself.

2. Method of Voting

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

3. Determining the election of the *Mayor*

- 3.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 3.2 Any Councillor wishing to move a nomination must do so in accordance with the following process.
- 3.3 A Councillor wishing to nominate another Councillor must raise their hand or otherwise signify their wish to nominate another Councillor, and wait to be called upon by the *Chief Executive Officer*.

- 3.4 The Councillor must advise they wish to nominate a Councillor and then state the name of the Councillor they wish to nominate.
- 3.5 The *Chief Executive Officer* will then ask the nominated Councillor if they accept the nomination and the nominated Councillor must advise if they accept or reject the nomination.
- 3.6 Nominations will be not be valid unless they are seconded by a Councillor other than the Councillor moving the nomination.
- 3.7 Councillors may not move or second their own nomination.
- 3.8 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:

Single Nomination

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

Multiple Nominations and Candidate Elected on First Vote

- 3.8.2 If there is more than one nomination, the Councillors *in attendance* at the meeting must vote for one of the candidates.
- 3.8.3 In the event of a candidate receiving the votes of an absolute majority of Councillors, that candidate is declared to have been elected.

Three or More Nominations and No Candidate Obtaining Absolute Majority on First Vote

- 3.8.4 In the event that:
- (a) there are three or more candidates;
 - (b) no candidate receives the votes of an absolute majority of Councillors; and
 - (c) it is not resolved to conduct a new election at a later date and time
- the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors *in attendance* at the meeting will then vote for one of the remaining candidates.
- 3.8.5 If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors and it is not resolved to conduct a new election at a later day and time, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives the votes of an absolute majority of Councillors. That candidate must then be declared to have been duly elected.
- 3.8.6 For the purposes of sub-Rules 3.8.4 and 3.8.5 if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.

- 3.8.7 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 who has an equal number of votes with another candidate or candidates will draw one lot;
 - (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; 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 until one of those candidates receives the votes of an absolute majority of Councillors).

Two Nominations of Two Remaining Candidates and No Candidate Obtaining an Absolute Majority on First Vote

- 3.8.8 In the event of two candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of Councillors, the Councillors *in attendance* at the meeting will consider whether to resolve to conduct a new election at a later date and time.
- 3.8.9 If:
- (a) it is resolved to conduct a new election at a later date and time a new election will take place at on the date and at the time resolved upon. In that event the provisions of this Rule 3 will continue to govern the election of the *Mayor*, and ultimately any candidate whose nomination is the sole nomination or any candidate who receives the votes of an absolute majority of Councillors will be declared duly elected; and
 - (b) it is not resolved to conduct a new election at a later date and time Councillors must continue to vote until one of the candidates receives the votes of an absolute majority of Councillors, at which point that candidate will be declared duly elected. If, after two or more further votes are taken neither candidate receives the votes of an absolute majority of Councillors, the provisions of sub-Rule 3.8.8 and this sub-Rule 3.8.9 must again be followed.

4. Role of Deputy Mayor

- 4.1 *Council* may establish an office of Deputy Mayor.
- 4.2 If *Council* has established an office of Deputy Mayor, the provisions of the *Act* relating to the office of Deputy Mayor apply.

- 4.3 If *Council* has not established an office of Deputy Mayor, section 20B of the *Act* applies.

5. Election of Deputy Mayor and Chairs of Delegated Committees

- 5.1 Any election for:

- 5.1.1 any office of Deputy Mayor; or
- 5.1.2 *Chair of a Delegated Committee*

will be regulated by Rules 1-3 (inclusive) of this Chapter, as if the reference to the:

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

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

6. Appointment of Acting Mayor

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

- 6.1.1 resolving that a specified Councillor be so appointed; or
- 6.1.2 following the procedure set out in Rules 2 and 3 (inclusive) of this Chapter,

at its discretion.

7. Appointment of Council Representatives and Delegates

- 7.1 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:

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

Meetings Procedure

Notices of Meetings and Delivery of Agendas

8. Dates and Times of Meetings Fixed by Council

Subject to Rule 10, *Council* must from time to time fix the date, time and place of all *Council meetings*.

9. 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.

10. Meetings Not Fixed by Council (Unscheduled or Special Meetings)

- 10.1 The *Mayor* or at least five (5) Councillors may by a *written* notice to the *Chief Executive Officer* call a *Council meeting*.
- 10.2 The notice must specify the date and time of the *Council meeting* and the business to be transacted.
- 10.3 The date of the *Council meeting* as specified in the notice must be at least three (3) *business days* after the day the *written* notice is sent to the *Chief Executive Officer*.
- 10.4 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice.
- 10.5 Unless all Councillors are *in attendance* and unanimously agree to deal with any other matter, only the business specified in the *written* notice can be transacted at the *Council meeting*.

11. Notice Of Meeting

- 11.1 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. Members of Council staff will make best endeavours to contact any Councillor on leave by telephone to advise that Councillor of the meeting.
- 11.2 Notwithstanding sub-Rule 11.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of their absence.
- 11.3 Notice of each *Council meeting* must be provided to the public. *Council* may do this:
 - 11.3.1 for *Council 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
 - 11.3.2 for any *Council meeting* by giving notice on its website and social media channels, and may also provide notice by one or more of the following methods:

- (a) in each of its Customer Service Centres and libraries;
- (b) in at least one newspaper generally circulating in the *municipal district*; and/or
- (c) by using other electronic media as chosen by the *Chief Executive Officer* as a means of communication.

Quorums

12. Inability To Obtain A Quorum

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

- 12.1 the meeting will be deemed to have lapsed;
- 12.2 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
- 12.3 the *Chief Executive Officer* must give all Councillors *written* notice of the meeting convened by the *Mayor*.

13. Inability To Maintain A Quorum

- 13.1 If, during any *Council meeting*, a *quorum* cannot be maintained then Rule 12 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 13.2 Sub-Rule 13.1 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.

14. Adjourned Meetings

- 14.1 *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.
- 14.2 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.
- 14.3 If it is impracticable for the notice given under sub-Rule 14.2 to be in *writing*, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.
- 14.4 *Council* may, by resolution, adjourn any meeting for a short break of no more than five (5) minutes, in which case:
 - 14.4.1 a resolution is not required to reopen the meeting; and
 - 14.4.2 sub-Rules 14.2 and 14.3 do not apply.

15. Time limits for Meetings

- 15.1 A *Council meeting* must not continue after 10.00pm unless a majority of Councillors who are *in attendance* vote in favour of it continuing.
- 15.2 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).
- 15.3 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 14.2 and 14.3 apply.

16. Cancellation or Postponement of a Meeting

- 16.1 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*.
- 16.2 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 16.1

Business of Meetings

17. 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.

18. Change To Order Of Business

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

19. Accessibility

- 19.1 Council will conduct *Council meetings* in a venue that is accessible for the purposes of the *Disability Discrimination Act 1992*.
- 19.2 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.
- 19.3 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*.

20. Reports of Council Representatives and Delegates

A Councillor who is:

- 20.1 the *Chair* of an advisory committee, a *Community Asset Committee* or a *Delegated Committee* established by *Council*;
- 20.2 appointed by *Council* as a member of a community consultative or reference committee; or

- 20.3 a delegate, nominee or appointee to an external committee, body, association, group or working party

can present to other Councillors a *written* account on the most recent deliberations of the committee, body, association, group or working party at the next practicable *Council meeting*.

21. Urgent Business

- 21.1 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.
- 21.2 The Councillor's proposal to raise a matter as urgent business must include a motion to admit the matter as urgent business and written confirmation that the matter:
- 21.2.1 relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
 - 21.2.2 cannot safely or conveniently be deferred until the next *Council meeting*.
- 21.3 The *Chief Executive Officer* will advise *Council* of any matter that the *Chief Executive Officer* determines appropriate for *Council* to consider admitting as urgent business.
- 21.4 Business cannot be admitted as urgent business other than by resolution of *Council*.

Motions and Debate

22. Councillors May Propose Notices Of Motion

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

23. Notice Of Motion

- 23.1 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 day of the *Council meeting* to allow sufficient time for the *Chief Executive Officer* to include the *notice of motion* in the *agenda* for the *Council meeting* and to give each Councillor at least 48 hours notice of such *notice of motion*.
- 23.2 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*.
- 23.3 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*.
- 23.4 The *Chief Executive Officer* must reject any *notice of motion* which:
- 23.4.1 is vague or unclear in intention;
 - 23.4.2 is beyond *Council's* power to pass;
 - 23.4.3 is defamatory;

- 23.4.4 may be prejudicial to any person or *Council*, including, without limiting the foregoing, because the proposed *notice of motion* contains confidential information;
 - 23.4.5 is identical or substantially similar to a notice of motion or other motion that has been considered by Council in the preceding three (3) months;
 - 23.4.6 is objectionable in language or nature; or
 - 23.4.7 if passed would result in *Council* otherwise acting unlawfully
- but must:
- 23.4.8 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - 23.4.9 notify in *writing* the Councillor who lodged it of the rejection and reasons for the rejection.
- 23.5 The *Chief Executive Officer* may reject any *notice of motion* which relates to an operational or service matter that can normally be addressed through the operational service request process.
 - 23.6 A Councillor may withdraw their *notice of motion* by providing *written* notice to the *Chief Executive Officer* and all Councillors before the *agenda* is issued.
 - 23.7 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
 - 23.8 The text of any *written* advice provided by a member of Council staff to a Councillor in relation to that Councillor's *notice of motion* will be included in the *agenda*.
 - 23.9 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.
 - 23.10 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.
 - 23.11 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*.
 - 23.12 If a *notice of motion* is not moved at the *Council meeting* at which it is listed, it lapses.
 - 23.13 The *Chair*, having lodged a *notice of motion*, must vacate the chair of the *Council meeting* to move the *notice of motion*, in which case:
 - 23.13.1 the Deputy Mayor (if not already in the chair) will assume the chair; or
 - 23.13.2 if the Deputy Mayor is not *in attendance* or there is no Deputy Mayor or the Deputy Mayor is already the *Chair*,

Council must appoint a temporary *Chair* for the consideration of that item.

24. Congratulations and Condolences

- 24.1 A motion of congratulations or condolences must be in *writing*, and be lodged with or sent to the *Chief Executive Officer* before a *Council meeting* to allow for it to be moved at that *Council meeting*.
- 24.2 Minutes of a *Council meeting* will include motions of congratulations and condolences only as carried by *Council*.

25. Chair's Duty

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

- 25.1 defamatory;
- 25.2 objectionable in language or nature;
- 25.3 vague or unclear in intention;
- 25.4 outside the powers of *Council*; or
- 25.5 irrelevant to the item of business on the *agenda* and has not been admitted as urgent business, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

26. Introducing A Motion or an Amendment

The procedure for moving any motion or amendment is:

- 26.1 the mover must state the motion without speaking to it;
- 26.2 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;
- 26.3 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?"
- 26.4 if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
- 26.5 if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must call on the mover to address the meeting;
- 26.6 after the mover has addressed the meeting, the seconder may address the meeting;
- 26.7 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; and
- 26.8 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.

27. Right Of Reply

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

28. Moving An Amendment

- 28.1 Subject to sub-Rule 28.2 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.
- 28.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 28.3 An amendment must not be directly opposite to the motion.

29. Who May Propose An Amendment

- 29.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 29.2 Any one (1) Councillor cannot move more than two (2) amendments in succession.

30. How Many Amendments May Be Proposed

- 30.1 Any number of amendments may be proposed to a motion but only one (1) amendment may be accepted by the *Chair* at any one time.
- 30.2 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.

31. An Amendment Once Carried

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

32. Foreshadowing Motions

- 32.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of their intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- 32.2 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.
- 32.3 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.
- 32.4 The *Chair* is not obliged to accept foreshadowed motions.

33. Withdrawal Of Motions

Before any motion is put to the vote, it may be withdrawn by the mover and seconder if *Council* so resolves.

34. Separation Of Motions

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

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

35.1 The *Chair* may decide to put any motion to the vote in several parts.

35.2 The *Chair* may allow or request Councillors to move substantially similar items in a block (en bloc).

36. Deferral Motions

36.1 Where *Council* resolves to defer an item, there will be no further debate on the item, and the motion will be as follows:

That Council defers item [item number and title], to be considered at the next practicable Council meeting.

37. 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.

38. Motions In Writing

38.1 The *Chair* may require that a complex or detailed motion be in writing.

38.2 *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.

39. 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.

40. Debate Must Be Relevant To The Motion

40.1 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.

40.2 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.

40.3 A speaker to whom a direction has been given under sub-Rule 40.2 must comply with that direction.

41. Speaking Times

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

42. Addressing the Meeting

If the *Chair* so determines:

- 42.1 any person addressing the chair must refer to the *Chair* as:
 - 42.1.1 Madam Mayor; or
 - 42.1.2 Mr Mayor; or
 - 42.1.3 Madam Chair; or
 - 42.1.4 Mr Chair
 - 42.1.5 Mayor
 - 42.1.6 Chairas the case may be;
- 42.2 all Councillors, other than the *Mayor*, must be addressed as
Cr(name).
- 42.3 all members of Council staff, must be addressed as Mr or Ms
.....(name) as appropriate or by their official title.
- 42.4 Except for the *Chair*, any Councillor or person who addresses a *Council meeting*, including to move, second, or otherwise speak to a motion, must direct all remarks to or through or the chair unless granted an exemption by the chair.

43. Right to Ask Questions

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

Procedural Motions

44. Procedural Motions

- 44.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- 44.2 Procedural motions require a seconder.
- 44.3 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 any amendment postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the 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. Adjournment of meeting for five (5) minute break	That the meeting be adjourned for a short break of five minutes.	Any Councillor	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Meeting adjourned for five minutes	Meeting continues unaffected	No

Procedural Motion	Form	Mover & Second	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
3. The closure of debate	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i> . <i>If mover and seconder have not yet spoken to, or been provided with the opportunity to speak to, the motion.</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 their right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
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

Procedural Motion	Form	Mover & Second	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
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>	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> .	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

Procedural Motion	Form	Mover & Second	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
9. Consideration of Confidential Matters Where They Are the Last Items for Consideration at the Meeting	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 remaining of the meeting for 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) definition], and is the last item for consideration at the meeting.	Any Councillor	N/A	Meeting is closed to members of the public for the remaining of the meeting 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> , and the matter is the last item for consideration at the meeting.	Meeting continues to be open to the public.	Yes

Rescission Motions

45. Rescission Motions

- 45.1 A Councillor may propose a *notice of rescission* provided that the:
- 45.1.1 Councillor proposing a *notice of rescission* has circulated the draft *notice of rescission* to all Councillors for information before lodging it with the *Chief Executive Officer*;
 - 45.1.2 Councillor provides evidence to the *Chief Executive Officer* at the time of lodging the *notice of rescission* that a draft has been circulated to all Councillors prior to being lodged with the *Chief Executive Officer*;
 - 45.1.3 *notice of rescission* has been signed and dated;
 - 45.1.4 resolution proposed to be rescinded has not been acted on;
 - 45.1.5 effect of rescinding the resolution will not place *Council* at significant legal, financial or other risk, including non-compliance with any statutory obligations; and
 - 45.1.6 *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.
- 45.2 A resolution will be deemed to have been acted on if:
- 45.2.1 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
 - 45.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 45.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 45.3.1 has not been acted on; and
 - 45.3.2 is the subject of a *notice of rescission* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 45.1,
- unless deferring implementation of the resolution would:
- 45.3.3 have the effect of depriving the resolution of efficacy; or
 - 45.3.4 place *Council* at significant legal, financial or other risk.

- 45.4 The full text of any *notice of rescission* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- 45.5 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*.
- 45.6 The *Chief Executive Officer* must cause all *notices of rescission* to be numbered, dated and entered in the notice of motion register in the order in which they were received.
- 45.7 Except by leave of *Council*, each *notice of rescission* before any meeting must be considered in the order in which they were received.
- 45.8 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 *notice of rescission* when called upon to do so by the *Chair*, any other Councillor may move the *notice of rescission*.
- 45.9 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 (if not already in the chair) will assume the chair; or
 - (b) if the Deputy Mayor is not *in attendance*, there is no Deputy Mayor or the Deputy Mayor is already the *Chair*,

Council must appoint a temporary *Chair* for the consideration of that item.

46. If Lost

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

47. If Not Moved

If a *notice of rescission* is not moved at the meeting at which it is listed, it lapses.

48. May Be Moved By Any Councillor

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

49. When Not Required

- 49.1 Unless sub-Rule 49.2 applies, a *notice of rescission* is not required where *Council* wishes to change policy.
- 49.2 The following standards apply if *Council* wishes to change policy:
- 49.2.1 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
 - 49.2.2 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.

- 49.3 Changes to policies designated by *Council* as “Major Policies” may only be amended, modified or revoked in accordance with the *Governance (Major Policy Consultation) Local Law No. 3 2014*.

Points of Order

50. Chair To Decide

The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which they consider 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.

51. Chair May Adjourn To Consider

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

52. Dissent From Chair's Ruling

- 52.1 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".
- 52.2 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 *in attendance*, a temporary *Chair* elected by the meeting) must take their place.
- 52.3 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for their dissent and the *Chair* may then reply.
- 52.4 The Deputy Mayor or temporary *Chair* must put the motion in the following form:
- "That the *Chair's* ruling be dissented from."
- 52.5 If the vote is in the negative, the *Chair* resumes the chair and the meeting proceeds.
- 52.6 If the vote is in the affirmative, the *Chair* must then resume the chair, reverse or vary (as the case may be) their previous ruling and proceed.
- 52.7 The defeat of the *Chair's* ruling is in no way a motion of censure or no-confidence in the *Chair*, and should not be so regarded by the meeting.

53. Procedure For Point Of Order

A Councillor raising a point of order must state:

- 53.1 the point of order; and
- 53.2 any section, Rule, paragraph or provision relevant to the point of order

before resuming their seat unless granted an exemption by the *Chair* .

54. Valid Points Of Order

- 54.1 A point of order may be raised in relation to:
 - 54.1.1 a motion, which, under Rule 25, or a question which, under Rule 55, should not be accepted by the *Chair*;
 - 54.1.2 a question of procedure; or
 - 54.1.3 any act of disorder.
- 54.2 The *Chair* has ultimate discretion not to recognise as valid a point of order that does which does not comply with *these Rules* or is raised in relation to a matter which is not capable of being a valid point of order.
- 54.3 Rising to express a difference of opinion or to contradict a speaker is not a point of order.

Public Question Time

55. Question Time

- 55.1 There must be a public question time at every *Council meeting* fixed under Rule 8 to enable members of the public to submit questions to *Council*.
- 55.2 Sub-Rule 55.1 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*.
- 55.3 Public question time will not exceed 15 minutes in duration, unless by resolution of *Council*, in which case public question time may be extended for a further period of 15 minutes.
- 55.4 Questions submitted to *Council* must:
 - 55.4.1 be in *writing* and generally in a form approved by the *Chief Executive Officer*;
 - 55.4.2 state the name and address of the person submitting the question; and
 - 55.4.3 be lodged at *Council's* principal office (Sunshine) or submitted electronically on *Council's* website by 9am on the last *business day* immediately prior to the day of the meeting.
- 55.5 The *Chief Executive Officer* will cause a question submitted in a language other than English to be translated to English.
- 55.6 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.
- 55.7 No person may submit more than two (2) questions at any one meeting.
- 55.8 If a person has submitted two (2) questions to a meeting, the second question:
 - 55.8.1 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

- 55.8.2 may not be asked if the time allotted for public question time has expired.
- 55.9 The *Chair* or a member of Council staff nominated by the *Chair* may read to those *in attendance* at the meeting a question which has been submitted in accordance with this Rule.
- 55.10 Notwithstanding sub-Rule 55.9, the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not *in attendance* at the time when the question is due to be read.
- 55.11 A question may be disallowed by the *Chair* if the *Chair* determines that it:
- 55.11.1 relates to a matter outside the duties, functions and powers of *Council*;
 - 55.11.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 55.11.3 deals with a subject matter already answered;
 - 55.11.4 is aimed at embarrassing a Councillor or a member of Council staff;
 - 55.11.5 relates to personnel matters;
 - 55.11.6 relates to the personal hardship of any resident or ratepayer;
 - 55.11.7 relates to industrial matters;
 - 55.11.8 relates to contractual matters;
 - 55.11.9 relates to proposed developments;
 - 55.11.10 relates to legal advice;
 - 55.11.11 relates to matters affecting the security of *Council* property; or
 - 55.11.12 relates to any other matter which *Council* considers would prejudice *Council* or any person.
- 55.12 Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- 55.13 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.
- 55.14 Like questions may be grouped together and a single answer provided.
- 55.15 The *Chair* may nominate a Councillor or the *Chief Executive Officer* to respond to a question.
- 55.16 The *Chair* or a member of Council staff nominated by the *Chair* may, in the interests of maximising the number of questions that can be answered during the time allowed for Public Question Time, choose not to read out any part of the public question that is in the nature of a submission.
- 55.17 A *written* copy of the questions submitted and the answers provided at a meeting must be published in the minutes of the meeting.

- 55.18 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.
- 55.19 A Councillor or the *Chief Executive Officer* may advise *Council* that it is their 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.

Petitions and Joint Letters

56. Petitions and Joint Letters

- 56.1 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 fixed *Council meeting* after that at which it has been presented.
- 56.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint themselves with the contents of that petition or joint letter, and to ascertain that it does not contain language which is disrespectful towards *Council*.
- 56.3 Every Councillor presenting a petition or joint letter to *Council* must:
- 56.3.1 write or otherwise record their name at the beginning of the petition or joint letter; and
 - 56.3.2 confine themselves to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and what is requested of *Council*.
- 56.4 Every petition or joint letter presented to *Council* must:
- 56.4.1 be in *writing* (other than pencil);
 - 56.4.2 not be defamatory or objectionable in language or nature;
 - 56.4.3 not relate to matters outside the powers of *Council*;
 - 56.4.4 clearly state the request of the petitioners to *Council* to take particular action(s);
 - 56.4.5 include the whole request of the petitioners on each page; and
 - 56.4.6 subject to sub-Rule 56.6, contain the name, address and signature of each petitioner or signatory.
- 56.5 Every page of a hard copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 56.6 Electronic or online petitions, joint letters, memorials or like applications must contain the name and email address of each petitioner or signatory, which details will, for the purposes of this Rule 56, qualify as the address and signature of such petitioner or signatory.

- 56.7 Only the request of petitioners and the number of signatories will be included in the *agenda* for the *Council meeting*.
- 56.8 Any petition or joint letter must be received by *Council* at least five (5) *business days* before the day of a *Council meeting* to allow sufficient time for the petition to be included in the *agenda* for that *Council meeting*.
- 56.9 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.

Voting

57. 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.

58. Silence

Subject to Rule 61, voting must take place in silence.

59. Recount

- 59.1 The *Chair* may direct that a vote be recounted to satisfy themselves of the result.
- 59.2 The *Chair* may adjourn a meeting to consider how their casting vote will be cast.

60. Casting Vote

- 60.1 Subject to sub-Rule 60.2, in the event of a tied vote the *Chair* has a casting vote
- 60.2 Sub-Rule 60.1 does not apply where the question is:
- 60.2.1 the election of a *Mayor*, a Deputy Mayor, or a *Chair* of a *Delegated Committee*; or
 - 60.2.2 a vote, under section 23 of the *Act*, to declare the office of *Mayor* or Deputy Mayor vacant.

61. How Votes are Cast

- 61.1 Voting on any matter is by show of hands or such other visible or audible means as the *Chair* determines
- 61.2 For the purpose of determining the result of a vote and in accordance with section 61(6) of the *Act*, a Councillor *in attendance* at the meeting who does not vote is to be taken to have voted against the question.

62. Procedure For A Division

- 62.1 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.
- 62.2 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.
- 62.3 When a division is called for, the *Chair* must:

- 62.3.1 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 their hands or otherwise signify their support in a manner recognised by the *Chair*. The *Chair* must then state, and the *Chief Executive Officer* or any member of Council staff authorised by the *Chief Executive Officer* must record, the names of those Councillors voting in the affirmative; and
- 62.3.2 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 their hands or otherwise signify their opposition in a manner recognised by the *Chair*. The *Chair* must then state, and the *Chief Executive Officer* or any member of Council staff authorised by the *Chief Executive Officer* must record, the names of those Councillors voting in the negative.

63. 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:

- 63.1 a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- 63.2 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 63 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 63 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 63.2, to discussion about a positive motion were a resolution has just been rescinded.

Minutes

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

64. Confirmation of Minutes

- 64.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:
 - 64.1.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the meeting;
 - 64.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - 64.1.3 if a Councillor indicates opposition to the minutes:

- (a) they must specify the item(s) to which they object;
- (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 64.1.3(k);
- (g) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
- (h) after the mover has addressed the meeting, the seconder may address the meeting;
- (i) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (j) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
- (k) the *Chair* must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

"The question is that the minutes, as amended, be confirmed",

and then put the question to the vote accordingly;

- 64.1.4 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;
- 64.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively; and
- 64.1.6 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*.

65. 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.

66. 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.

67. Form and Availability of Minutes

67.1 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:

- 67.1.1 the date, place, time and nature of the meeting;
- 67.1.2 the names of the Councillors *in attendance* and the names of any Councillors who apologised in advance for their non-attendance;
- 67.1.3 the names of the members of Council staff *in attendance* who are not part of the gallery;
- 67.1.4 any disclosure of a conflict of interest made by a Councillor, including the explanation given by the Councillor under Chapter 5 and whether the conflict of interest was said by the Councillor to be a general conflict of interest or a material conflict of interest;
- 67.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
- 67.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
- 67.1.7 the vote cast by each Councillor upon a division and any abstention from voting;
- 67.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
- 67.1.9 questions upon notice and the response to the question taken upon notice;
- 67.1.10 the failure of a *quorum*;
- 67.1.11 any adjournment of the meeting and the reasons for that adjournment (except that no reason is required to be recorded for adjournments for a short break under sub-Rule 14.4);
- 67.1.12 the time at which standing orders were suspended and resumed; and
- 67.1.13 instances where the *Chair* made a statement in relation to an item on the agenda. The minutes will note, for example, "The Mayor made a statement."

67.2 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are made available to:

- 67.2.1 Councillors within three (3) *business days* of the conclusion of the meeting; and
- 67.2.2 members of the public, by publishing them on the website within four (4) *business days* of the conclusion of the meeting.
- 67.3 Nothing in sub-Rule 67.2 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*.

68. Recording of Meetings

- 68.1 A person must not, without the prior approval of the *Chair*, operate any audio or visual recording equipment at any *Council meeting*.
- 68.2 Nothing in sub-Rule 68.1 applies to:
 - 68.2.1 any recording device operated by a member of Council staff for the purpose of preparing draft minutes of the *Council meeting*;
 - 68.2.2 any recording device operated for the purpose of live streaming a *Council meeting* and publishing the recording of the meeting in accordance with *Council's* Live Streaming of Council Meetings Policy; or
 - 68.2.3 any security camera installed in any place in which a *Council meeting* is held.
- 68.3 If the *Chair* gives approval under sub-Rule 68.1, 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*.

Behaviour

69. Public Addressing The Meeting

- 69.1 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.
- 69.2 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.
- 69.3 A member of the public *in attendance* at a *Council meeting* must not disrupt the meeting.

70. 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 69.2.

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 their authority in chairing the meeting.

71. Chair may adjourn disorderly meeting

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, the *Chair* may adjourn the meeting to a later time on the same day or to some later day as they think proper. In that event, the provisions of sub-Rules 14.2 and 14.3 apply.

72. Removal from Chamber

The *Chair* may ask the *Chief Executive Officer* to see to the removal of any person who acts in breach of this Chapter and whom the *Chair* has ordered to be removed from Chamber under Rule 70.

Additional Duties of Chair

73. The Chair's Duties And Discretions

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

- 73.1 not accept any motion, question or statement which is derogatory or defamatory of any person; and
- 73.2 call to order any person who is disruptive or unruly during any meeting.

Suspension of Standing Orders

74. Suspension of Standing Orders

- 74.1 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.

- 74.2 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 orders be suspended to enable discussion on....."

- 74.3 No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

- 74.4 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."

75. Physical and Remote Attendance

- 75.1 Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:
- 75.1.1 wholly in person;
 - 75.1.2 wholly by electronic means; or
 - 75.1.3 partially in person and partially by electronic means.
- 75.2 The indication in the notice of meeting must be consistent with any resolution of *Council* that has expressed a preference for, or otherwise specified, when *Council meetings* are to be conducted:
- 75.2.1 wholly in person;
 - 75.2.2 wholly by electronic means; or
 - 75.2.3 partially in person and partially by electronic means.
- 75.3 If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- 75.4 Any request made under sub-Rule 75.3 must:
- 75.4.1 be in *writing*;
 - 75.4.2 be given to the *Chief Executive Officer* no later than 24 hours prior to the commencement of the relevant *Council meeting*; and
 - 75.4.3 specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in person.
- 75.5 The *Chief Executive Officer* must ensure that any request received in accordance with sub-Rule 75.4 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant *Council meeting*.
- 75.6 *Council* may approve and must not unreasonably refuse any request.
- 75.7 A Councillor who is *attending* a *Council meeting* by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the *Council meeting*.
- 75.8 Without detracting from anything said in sub-Rule 75.7, a Councillor who is *attending* a meeting by electronic means must be able to:
- 75.8.1 hear the proceedings;
 - 75.8.2 see all Councillors and members of Council staff who are also *attending* the *Council meeting*, at least while a Councillor or member of Council staff is speaking;
 - 75.8.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the *Council meeting*; and
 - 75.8.4 be heard when they speak.

75.9 If the conditions of sub-Rule 75.8 cannot be met by one or more Councillors *attending a Council meeting*, whether because of technical difficulties or otherwise:

75.9.1 the *Council meeting* will nonetheless proceed as long as a *quorum* is present; and

75.9.2 the relevant Councillor (or Councillors) will be treated as being absent from the *Council meeting* or that part of the *Council meeting*

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

75.10 Nothing in this Rule prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 75.8 even if the *Council meeting* has already commenced or has continued in their absence.

76. Meetings Conducted Remotely

If a *Council meeting* is conducted wholly or partially by electronic means, the *Chair* may, upon *Council* so resolving, 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.

Miscellaneous

77. Criticism of members of Council staff

77.1 The *Chief Executive Officer* may make a brief statement at a *Council meeting* in respect of any statement by a Councillor made at the *Council meeting* criticising them or any member of Council staff.

77.2 A statement under sub-Rule 77.1 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed their seat.

78. Procedure not provided in this Chapter

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

79. 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*.

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 a 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. 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

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

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

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

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

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

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

A *Member of a Delegated Committee* who has a conflict of interest in a matter being considered at a *Delegated Committee* meeting at which they:

- 3.1 are *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Delegated Committee* meeting immediately before the matter is considered, and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 3.2 intend to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:
 - 3.2.1 advising of the conflict of interest;
 - 3.2.2 explaining the nature of the conflict of interest, and indicating whether it is a general conflict of interest or a material conflict of interest; and

3.2.3 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

3.2.4 nature of that other person's interest in the matter,

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

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

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

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

4.1 are *in attendance* must disclose that conflict of interest by explaining the nature of the conflict of interest to those *in attendance* at the *Community Asset Committee* meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or

4.2 intent to *attend* must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Community Asset Committee* meeting commences a written notice:

4.2.1 advising of the conflict of interest;

4.2.2 explaining the nature of the conflict of interest, and indicating whether it is a general conflict of interest or a material conflict of interest; and

4.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:

- (a) name of the other person;
- (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and

4.2.4 nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those *in attendance* that they have 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 *Community Asset Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

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

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

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

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

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

- 6.1.1 *Council meeting*;

- 6.1.2 *Delegated Committee* meeting;

- 6.1.3 *Community Asset Committee* meeting

must, immediately upon becoming aware of the conflict of interest, provide a written notice to the *Chief Executive Officer* disclosing the conflict of interest and explaining the nature of the conflict of interest, and indicating whether it is a general conflict of interest or a material conflict of interest.

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

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

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

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

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

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

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

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

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

9. Retention of Written Notices

The *Chief Executive Officer* must retain all written notices received under this Chapter for a period of three (3) years.

Appendix 1 – Conduct During Election Period Policy

Conduct During Election Period Policy 2023

1. Purpose

This policy forms part of Council's Governance Rules. It should be read in conjunction with the Councillor Code of Conduct Major Policy (Code) and the Standards of Conduct set out in Schedule 1 to the *Local Government (Governance and Integrity) Regulations 2020*. 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 2020* (the Act), which requires councils to have an election period policy that sets out requirements relating to conduct, decision making, transparency and equity, and use of Council resources, during an Election Period.

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 actual and perceived conflicts between the two roles, and endeavour to demonstrate they understand the separation between them.

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 Act specifically requires this policy to prohibit Council from making any Prohibited Decisions during the Election Period. These restrictions are the minimum legislative requirements. This policy also sets out other restrictions for the use of Council resources and decision making for Electioneering purposes at any time in connection with any municipal 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

Candidate means a person who nominates as a candidate in a Municipal Election.

Code means the Councillor Code of Conduct 2021.

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.

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

Electoral Matter means matter which is intended or likely to affect voting in an election, but does not include any electoral material produced by or on behalf of the election manager for the purposes of conducting an election. 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
- A Candidate in the election
- An issue submitted to, or otherwise before, the voters in connection with the election.

Municipal Election means a general election and a by-election held under and in accordance with the Act.

Prohibited Decision means any decision during the Election Period for a general election that:

- Relates to the appointment or remuneration of the Chief Executive Officer
- Commits Council to expenditure exceeding 1 per cent of Council's rate income from the previous financial year
- Council considers could reasonably be deferred until after the election
- Council considers should not be made during an Election Period
- Would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

Prospective Candidate means any person who expresses an intention to run as a candidate for a municipal 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, including a process instigated under s 223 of the *Local Government Act 1989* and under Council's Community Engagement Policy.

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 made in accordance with the Act.

5.1 Legislative Context

Under Section 69 of the Act, a council must include an election period policy in its Governance Rules which sets out procedures to be applied by the council during the Election Period for a Municipal Election.

An election period policy must prohibit Council from making any Prohibited Decisions during the Election Period for a Municipal Election.

Section 304 of the Act imposes limitations on Council publications during the Election Period (prohibiting the use of Council resources to publish Electoral Matter). Specifically, s 304 of the Act states that a Councillor or member of Council staff must not use Council resources:

- In a way that is intended or likely to affect the result of a Municipal Election
- To intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any Electoral Matter on behalf of, or purporting to be on behalf of, Council, unless the material only contains information about the election process.

Section 69 of the Act prohibits Council from making any Prohibited Decisions during the Election Period:

Section 123 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).

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
- 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 any Municipal Election. Such use would constitute misuse of position by the Councillor.

6.2.1 Municipal 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 Municipal Election.

The Election Period for Municipal Elections is defined by the Act. There are restrictions and limitations on the kinds of decisions that Council may make during this period.

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 matters requiring Prohibited Decisions 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 any matters calling for, or make any, Prohibited Decisions during an Election Period.

Council officers and Delegated Committees with delegated power to make decisions are also not permitted to make any Prohibited Decisions during an Election Period.

The only items to be considered at Council and Delegated Committee Meetings held during the Election Period, will be the Annual Report, and administrative reports to complete Council's term of office (for example, Informal Meetings of Councillors and delegate's reports). A Notice of Motion submitted by a Councillor during the Election Period that relates to Electoral Matter will not be accepted. Finally, Public Question Time will be suspended during the Election Period.

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 Delegated Committee Meeting for consideration. The caretaker statement will specify:

- "The recommended decision is not a prohibited decision as set out in section 69(2) of the *Local Government Act 2020*."

During the Election Period, neither Council nor a Delegated Committee will make a decision on any matter or report that does not include the above caretaker statement.

6.3.3 Considerations for Officers with Delegated Authority

Officers will not make any Prohibited Decisions under delegated authority during the Election Period.

Before making any other decision under delegated authority during the Election Period, officers should assess whether it is otherwise undesirable to make the decision during the Election Period. In making this assessment, officers will have regard to 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 the decision 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 undesirable should seek advice from the Manager Governance and Risk 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, 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 a Council or Delegated 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 to the public more broadly.

All election-related enquiries from Candidates, or Prospective Candidates (whether Councillors or not), will be directed to the Manager Governance and Risk in the first instance, who will decide whether the enquiry can be answered by Council or whether it should be referred to the Victorian Electoral Commission.

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 Matter and requests for information made by Councillors and Candidates, and a summary of the response provided by Council.

Council officers who receive a request for information from a Councillor or Candidate during the Election Period will discuss that request 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 to ensure that the request is entered into the Request for Information 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 Request for Information 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 Publications during an Election Period

Section 304(2) of the Act prohibits Councillors and members of Council staff from using Council resources to print, publish or distribute or cause, permit or authorise to be printed, published or distributed any Electoral Material during the Election Period on behalf of, or purporting to be on behalf of, Council.

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

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 the Election Period in the name of the Chief Executive Officer.

Council officers will not make any public statement that could be construed as being intended to influence the election. This will constitute a breach of the Employee Code of Conduct and may prompt disciplinary action. It may also constitute a criminal offence against s 304 of the Act.

Councillors will not use their position as an elected representative, or their access to Council 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 in each year.

The Annual Report must not include material that is considered Electoral Material, 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 Delegated 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 individual Councillors. The Chief Executive Officer will determine the appropriate content for an Annual Report produced during the Election Period.

Council will print and distribute the same number of copies of the Annual Report during the Election Period as it did in the preceding year.

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 Delegated Committee Meetings during the Election Period will be published on Council's website during the Election Period.

At the commencement of the Election Period, Council will advise social media subscribers that comments containing Electoral Matter will be deleted. Council officers responsible for administering individual social media sites will monitor their respective sites during the Election Period to ensure that no Electoral Matter is posted by social media subscribers.

6.5.5 Internal Publications/Intranet

The publication of internal newsletters and intranet information, including instruction for the Election Period, policies 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 to do so. This includes any writing, messaging, posting and commenting from Council owned devices, Councillor email addresses, Councillor social media profiles, Council's social media, Council letterhead, logo, stationery and photocopyers. Councillors and

Candidates must make it clear that the views expressed are personal views only, and not the views of 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.

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 conduct public meetings (other than Council Meetings) or events during the Election Period. This includes promotion of upcoming public meetings or events to be held after the Election Period. Councillors may continue to attend community events, provided that they attend in their private (not their Councillor) capacity. No support will be provided to Councillors attending public meetings or events by Council officers (for example, writing a speech).

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

6.6.2 Speeches For External Events

Council resources will not be used to prepare speeches, or provide support for attendance, for Councillors attending community and external events during the Election Period.

6.6.3 Public Consultation

Public Consultation is the process by which Council invites the community to comment on an issue, proposed action or proposed policy.

Public Consultation will be avoided during the Election 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 local Candidates (including Councillors), at the normal corporate hire rate determined for the facility, in the lead up to an election, but not during the 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 spaces (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 offence 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, must be used exclusively for usual Councillor duties during the Election Period and must not be used in connection with any election campaign or issue.

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 Electoral Material, as they continue to hold office during the Election Period.

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

6.7.2 Photographs and Images

Photographs and images paid for by Council, taken by Council officers, or taken by contractors engaged by Council for that purpose are not to be used in Electoral Material by or for any Candidate, regardless of the content of the photographs and images.

Photographs taken by Councillors and their family and friends, and professional photographs that Councillors have directly commissioned and paid for may be used in Electoral Material. This includes photographs taken on a Councillor's Council-issued device.

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 Councillor Support Major Policy 2020 and 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 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Victorian Electoral Act 2002*
- Councillor Code of Conduct
- Councillor Support Major Policy 2020
- Employee Code of Conduct
- Brimbank Planning Scheme
- Reforms Arising From the Local Government Amendment (Improved Governance) Act 2015
– A Guide for Councils by Local Government Victoria

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



Use Brimby, the online virtual assistant
brimbank.vic.gov.au

www.brimbank.vic.gov.au