



## City of Stonnington

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## Governance Rules

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## Document Authorisation

| <b>City of Stonnington</b> |  |
|----------------------------|--|
| Manager                    | David Taylor – Executive Manager, Governance & Integrity |
| Signed                     |  |
| Date                       |  |

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**COMMITMENT**

Council seeks to apply good governance in order to:

- engage our community in decision making;
- achieve the best outcomes for the Stonnington community, including future generations;
- ensure transparency of Council decisions, actions and information;
- ensure the ongoing financial viability of Council;
- improve our performance; and
- spend public monies wisely.

## INTRODUCTION

### 1. Purpose

These Governance Rules determine the way in which Council will:

- make decisions:
  - in the best interests of the Stonnington community;
  - fairly and on the merits of the matter before Council; and
  - in a way that ensures any person whose rights will be directly affected by any or all decisions, will be entitled to communicate their views and have their interests considered;
- elect its Mayor and Deputy Mayor;
- conduct meetings of Council and Delegated Committees;
- give notice and make records of meetings;
- be informed in its decision making through community engagement and Council officer reports; and
- require the disclosure of all Councillor and management conflicts of interest.

These Governance Rules also include the Election Period Policy

### 2. Principles

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

These principles are:

- (a) council decisions are to be made and actions taken in accordance with the relevant Act;
- (b) priority is to be given to achieving the best outcomes for the community, including future generations;
- (c) promote the economic, social and environmental sustainability of the municipality, including mitigation and planning for climate change risks;
- (d) the community is to be engaged in strategic planning and strategic decision making;
- (e) pursue innovation and continuous improvement;
- (f) collaborate with other councils, governments and statutory bodies;
- (g) ensure the ongoing financial viability of the Council;
- (h) consider regional, state and national plans and policies in strategic planning and decision making; and
- (i) maintain the transparency of Council decisions, actions and information.

To successfully implement the overarching governance principles, Council must take into account the following:

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

### 3. Nature of Rules

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

### 4. Date of Commencement

These Governance Rules commence on 1 September 2020.

### 5. Contents

These Governance Rules are divided into the following Chapters:

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

### 6. Definitions

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

*Act* means the *Local Government Act 2020*.

*Chief Executive Officer* includes an Acting Chief Executive Officer.

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

*Council* means Stonnington City Council.

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

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

*Mayor* means the Mayor of Council.

*these Rules* means these Governance Rules.

## CHAPTER 1 – GOVERNANCE FRAMEWORK

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the Act; and
- (b) the following documents adopted or approved by Council:
  - (i) Audit and Risk Charter
  - (ii) Community Engagement Policy
  - (iii) Complaints Policy
  - (iv) Councillor Code of Conduct
  - (v) Councillor Expense Policy
  - (vi) Councillor Gift Policy
  - (vii) Public Transparency Policy

Guidance and overview notes within these Rules are intended to be explanatory and included for guidance and do not form part of these Rules. These Rules will be monitored and updated to reflect changes to legislation or to assist interpretation and understanding.

### 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.



2.1.2

## CHAPTER 2 – MEETING PROCEDURE FOR COUNCIL MEETINGS

### Part A – Introduction

#### 1. Title

This Chapter will be known as the "Meeting Procedure Chapter".

#### 2. Purpose of this Chapter

The purpose of this Chapter is to:

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

#### 3. Definitions and Notes

3.1 In this Chapter:

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

*"Chair"* means the Chairperson of a meeting and includes a Councillor who is appointed by resolution to chair a meeting under section 61(3) of the *Act*;

*"municipal district"* means the municipal district of *Council*;

*"notice of motion"* means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

*"notice of rescission"* means a *notice of motion* to rescind a resolution made by *Council*; and

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

## Part B – Election of Mayor

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

### 4. Election of the Mayor

The Chief Executive Officer must facilitate the election of the Mayor in accordance with the provisions of the Act.

### 5. Method of Voting

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

### 6. Determining the Election of the Mayor

- 6.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.
- 6.2 The process for the election of the Mayor is as follows:
  - 6.2.1 the Chief Executive Officer must invite nominations for the office of the Mayor; and
  - 6.2.2 the nominations must be seconded by another Councillor.
- 6.3 Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:
  - 6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;
  - 6.3.2 if there is more than one nomination, the Chief Executive Officer, will invite the candidates to speak for 3 minutes in support of their nomination;
  - 6.3.3 if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates;
  - 6.3.4 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
  - 6.3.5 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
  - 6.3.6 if one of the remaining candidates receives an absolute majority of the votes, they are duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;

6.3.7 in the event of two or more candidates having an equality of votes and one of them having to be declared:

- (a) a defeated candidate; and
- (b) duly elected

the declaration will be determined by lot.

6.3.8 if a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:

- (a) each candidate will draw one lot;
- (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
- (c) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

6.3.9 After the election of the Mayor is determined, the Mayor must take the chair, and preside over the meeting pursuant to the Governance Rules.

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

Any election for:

- 7.1 any office of Deputy Mayor; or
- 7.2 Chair of a Delegated Committee

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

- 7.3 Chief Executive Officer is a reference to the Mayor; and
- 7.4 Mayor is a reference to the Deputy Mayor or the Chair of the Delegated Committee (as the case may be).

## **8. Appointment of Acting Mayor**

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

- 8.1 appointing the immediate past mayor; or
- 8.2 resolving that a specified Councillor be so appointed; or
- 8.3 following the procedure set out in Rules 5 and 6 (inclusive) of this Chapter,

at its discretion.

## Part C – Meetings Procedure

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

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

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

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

#### 10. Council May Alter Meeting Dates

- 10.1 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.
- 10.2 The Chief Executive Officer shall consult with the Mayor, before changing the date, time and place of any meeting which has been fixed

#### 11. Meetings Not Fixed by Council

- 11.1 The Mayor or at least 3 Councillors may by a written notice call a Council meeting.
- 11.2 The notice must specify the date and time of the Council meeting and the business to be transacted.
- 11.3 The Chief Executive Officer must convene the Council meeting as specified in the notice.
- 11.4 Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the written notice can be transacted at the Council meeting.

#### 12. Notice of Meeting

- 12.1 A notice of meeting, incorporating or accompanied by an agenda of the business to be dealt with, must be made available to every Councillor for all Council meetings at least 48 hours before the meeting.
- 12.2 Notwithstanding sub-Rule 12.1, a notice of meeting need not be made available to any Councillor who has been granted leave of absence unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting during the period of their absence.
- 12.3 Reasonable notice of each Council meeting must be provided to the public. Council may do this:
  - 12.3.1 for meetings which it has fixed by preparing a schedule of meetings annually or from time to time, and arranging publication of such schedule on the Council website at various times throughout the year, or prior to each such Council meeting; and
  - 12.3.2 for any meeting by giving notice on its website and in each of its Customer Service Centres and Council Libraries

## **Division 2 – Quorums**

The quorum for Council meetings or Special Council meetings is the presence of a majority of the Councillors.

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

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

- 13.1 the meeting will be deemed to have lapsed;
- 13.2 the Mayor must convene another Council meeting, the agenda for which will be identical to the agenda for the lapsed meeting; and
- 13.3 the Chief Executive Officer must give all Councillors notice of the meeting convened by the Mayor.

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

- 14.1 If during any Council meeting, a quorum cannot be maintained then Rule 13 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 14.2 Sub-Rule 14 does not apply if the inability to maintain a quorum is because of the number of Councillors who have a conflict of interest in the matter to be considered.

### **15. Adjourned Meetings**

- 15.1 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.
- 15.2 The Chief Executive Officer must give notice to all Councillors and members of the public, of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- 15.3 If it is impracticable for the notice given under sub-Rule 15.2 to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

### **16. Time limits for Meetings**

- 16.1 A Council meeting must not continue after 11.00pm unless a majority of Councillors present vote in favour of it continuing.
- 16.2 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).
- 16.3 If a matter before the meeting has not concluded by the time the 30 minute time extension has expired, the matter before the meeting may continue until such time as the matter has been resolved. No further matters may be considered after the conclusion of the matter before the meeting.
- 16.4 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 15.2 apply.

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

- 17.1 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.
- 17.2 The Chief Executive Officer, after consulting the Mayor, may cancel a meeting if there is no business to be transacted.
- 17.3 The Chief Executive Officer must present to the immediately following Council meeting a written report on any exercise of the power conferred by sub-Rule 17.1.

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

#### **18. 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. In setting the order of business the Chief Executive Officer should have regard to:

- 18.1 the expected duration of the meeting;
- 18.2 potential implications for subsequent meetings or events
- 18.3 the sensitivity of any particular item;
- 18.4 the anticipated community interest in any particular item;
- 18.5 where practicable, feedback from the Mayor;
- 18.6 the urgency of any particular item; and
- 18.7 any other relevant factor which may impact on the processes and good governance of the Council.
- 18.8 The order of business of any Council meeting, must be as follows
  - 18.8.1 Reading of the Reconciliation Statement
    - (a) The Chair will read the Reconciliation Statement
  - 18.8.2 Reading of Statement of Commitment
    - (a) The Chair will read the Statement of Commitment
  - 18.8.3 Introductions of Councillors and Executive Staff
    - (a) The Chair will introduce the Councillors and the Chief Executive Officer present at the meeting.
    - (b) The Chief Executive Officer will introduce the Council Officers present at the meeting
  - 18.8.4 Apologies
  - 18.8.5 Confirmation of the Minutes of the Previous Meeting
  - 18.8.6 Disclosure of any Conflicts of Interest
    - (a) In accordance with the Local Government Act 2020 – Division 2- Conflict of Interest
  - 18.8.7 Questions From the Community – refer Section 54
  - 18.8.8 Business
  - 18.8.9 Correspondence
  - 18.8.10 Tabling of Petitions and Joint Letters – refer Section 55



- 18.8.11 Notices of Motion – refer Section 23
- 18.8.12 Reports by Councillors – refer Chapter 6
- 18.8.13 Questions to Council Officers
- 18.8.14 Urgent Business- refer Section 20
- 18.8.15 General Business
- 18.8.16 Confidential Business

(a) In accordance with the Local Government Act 2020 – Section 66

## **19. Change to Order of Business**

Once an agenda has been made available to Councillors, the order of business for that Council meeting may be altered:

- 19.1 prior to the meeting by the Chief Executive Officer by issuing a revised agenda in accordance with Rule 18; or
- 19.2 by resolution, or with the consent of Council at the meeting.

## **20. Urgent Business**

A Councillor proposing an item of Urgent Business, must, without speaking to it, shortly state its nature and intent. Business cannot be admitted as urgent business other than by resolution of Council and only then if it:

- 20.1 relates to or arises out of a matter which has arisen since distribution of the agenda; and
- 20.2 cannot safely or conveniently be deferred until the next Council meeting.

## **21. General Business**

- 21.1 When dealing with General Business on the Agenda, a Councillor may make a statement on an issue of concern to the City or to a Ward, but there shall be no debate or resolution arising from that statement.

## Division 4 – 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 three Councillors, and be lodged with the Chief Executive Officer to allow sufficient time for them to include the Notice of Motion in agenda papers for a Council meeting and to give each Councillor at least 48 hours' notice of such Notice of Motion.
- 23.2 A Notice of Motion may be withdrawn by a request from the three Councillors who signed the motion, prior to the publication of the agenda for which the Notice of Motion was intended. Otherwise, the item must be dealt with at a Council meeting.
- 23.3 The Chief Executive Officer may reject any Notice of Motion which:
- 23.3.1 is defamatory
  - 23.3.2 is objectionable in language or nature
  - 23.3.3 is vague or unclear in intention
  - 23.3.4 is beyond Council's power to pass; or
  - 23.3.5 if passed would result in Council otherwise acting invalidly
- 23.4 If a Notice of Motion is rejected under sub-Rule 23.3, the Chief Executive Officer must:
- 23.4.1 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - 23.4.2 notify in writing the Councillor who lodged it of the rejection and the reasons for the rejection.
- 23.5 The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the agenda.
- 23.6 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.
- 23.7 Except by leave of Council, each Notice of Motion before any meeting must be considered in the order in which they were submitted.
- 23.8 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.
- 23.9 If a Notice of Motion is not moved at the Council meeting at which it is listed, it lapses.

**24. Chair's Duty**

Any motion which is determined by the Chair to be:

- 24.1 defamatory;
- 24.2 objectionable in language or nature;
- 24.3 vague or unclear in intention;
- 24.4 outside the powers of Council; or
- 24.5 irrelevant to the item of business on the agenda and has not been admitted as urgent, or purports to be an amendment but is not,

must not be accepted by the Chair.

**25. Introducing a Report**

25.1 Before a written report is considered by Council and any motion moved in relation to such report, a member of Council staff may introduce the report by indicating in not more than 2 minutes:

- 25.1.1 its background; or
- 25.1.2 the reasons for any recommendation which appears.

25.2 Unless Council resolves otherwise, a member of Council staff need not read any written report to Council in full.

**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 the mover to speak to the motion;
- 26.4 after the mover has addressed the meeting, the seconder may address the meeting;
- 26.5 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the Chair must invite debate by calling on any Councillor who wishes to speak to the motion, providing
- 26.6 an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 26.7 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.
- 26.8 no discussion on the item being considered may take place until such time as a motion is before the Chair. Questions of clarification may be asked of the Chair or members of Council staff present at the meeting;

**27. Right of Reply**

- 27.1 The mover of a motion, including an amendment once debate has been exhausted, has a right of reply to matters raised during debate.
- 27.2 After the right of reply has been taken, 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 No Councillor can move more than two amendments in succession.
- 29.3 Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original motion.
- 29.4 Debate on an amendment must be restricted to the terms of the amendment.

**30. How Many Amendments May be Proposed**

- 30.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time.
- 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 A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.

32.4 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.

32.5 The Chair is not obliged to accept foreshadowed motions.

### **33. Withdrawal of Motions**

33.1 Before any motion or amendment is put to the vote, it may be withdrawn by the mover and seconder with the leave of Council.

33.2 If the majority of Councillors object to the withdrawal of the motion or amendment, it may not be withdrawn.

### **34. Separation of Motions**

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

### **35. Chair May Separate Motions**

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

### **36. 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.

### **37. Motions in Writing**

37.1 All motions, except procedural motions, should be in writing.

37.2 The Chair may adjourn the meeting while the motion is being written or Council may defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

### **38. Repeating Motion and/or Amendment**

The Chair may request a Council Officer to read the motion or amendment to the meeting before the vote is taken.

### **39. Debate Must be Relevant to the Motion**

39.1 Debate must always be relevant to the motion or question before the Chair, and, if not, the Chair must request the speaker to confine debate to the motion or question.

39.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may direct the speaker to not speak further in respect of the motion then before the Chair.

39.3 A speaker to whom a direction has been given under sub-Rule 39.2 must comply with that direction.

### **40. Speaking Time Limits**

40.1 A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:

40.1.1 the mover of a motion or an amendment which has been opposed: 5 minutes;

- 40.1.2 any other Councillor: 3 minutes; and
  - 40.1.3 the mover of a motion exercising a right of reply: 2 minutes.
  - 40.2 Only one extension is permitted for each speaker.
  - 40.3 A motion to extend the speaking time cannot be moved:
    - 40.3.1 until the original speaking time has expired; and
    - 40.3.2 if another speaker has already commenced their contribution to the debate;
- and must be seconded.
- 40.4 Any extended speaking time must not exceed 1 minute.
  - 40.5 All speakers must be timed, and a warning signal sound when 30 seconds of the allocated time is remaining.

#### **41. Addressing the Meeting**

If the Chair so determines:

- 41.1 any person addressing the Chair must refer to the Chair as Mayor or Chair, as the case may be;
- 41.2 all Councillors, other than the Mayor, must be addressed as  
**Councillor** .....(family name)
- 41.3 all members of Council staff, must be addressed by the appropriate title  
.....(family name) as appropriate or by their official position title.

#### **42. Right to Ask Questions**

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

**Division 5 – Procedural Motions****43. Procedural Motions**

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

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**PROCEDURAL MOTIONS TABLE**


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

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## Division 6 – Rescission Motions

### 44. Notice of Rescission

- 44.1 A Councillor may propose a motion to rescind or to vary a previous resolution of Council by a notice of rescission provided:
- 44.1.1 it has been signed and dated by at least three Councillors;
  - 44.1.2 the resolution proposed to be rescinded has not been acted on; and
  - 44.1.3 the notice of rescission is delivered to the Chief Executive Officer within 48 hours of the resolution having been made setting out -
    - (a) the resolution to be rescinded; and
    - (b) the meeting and date when the resolution was carried.
- 44.2 The Chief Executive Officer or an appropriate member of Council staff, may implement a resolution at any time after the close of the meeting at which it was made. A resolution will be deemed to have been acted on if:
- 44.2.1 its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
  - 44.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.
- 44.3 The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- 44.3.1 has not been acted on; and
  - 44.3.2 is the subject of a notice of rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 44.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

### 45. If Lost

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

### 46. If Not Moved

If a motion for rescission is not moved at the meeting at which it is listed, it lapses and a similar motion may not be put before Council for at least three months from the date on which it lapsed.

### 47. May be Moved by Any Councillor

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

**48. When Not Required**

- 48.1 Unless sub-Rule 48.2 applies, a motion for rescission is not required where Council wishes to change policy.
- 48.2 The following standards apply if Council wishes to change policy:
- 48.2.1 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
  - 48.2.2 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.

**Division 7 – Points of Order****49. 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.

**50. Chair May Adjourn to Consider**

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

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

**51. Dissent From Chair's Ruling**

51.1 A Councillor may move that the meeting disagree with the Chair's ruling on a point of order, by moving:

51.2 "That the Chair's ruling [setting out that ruling or part of that ruling] be dissented from".

51.3 When a motion in accordance with this Rule is moved and seconded, the Chair must leave the Chair and the Deputy Mayor (or, if there is no Deputy Mayor or the Deputy Mayor is not present, temporary Chair elected by the meeting) must take their place.

51.4 The Deputy Mayor or temporary Chair must invite the mover to state the reasons for their dissent and the Chair may then reply.

51.5 The Deputy Mayor or temporary Chair must put the motion in the following form:

51.6 "That the Chair's ruling be dissented from."

51.7 If the vote is in the negative, the Chair resumes the Chair and the meeting proceeds.

51.8 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.

51.9 The defeat of the Chair's ruling is in no way a motion of censure or non- confidence in the Chair, and should not be so regarded by the meeting.

**52. Procedure for Point Of Order**

A Councillor raising a point of order must:

52.1 state the point of order; and

52.2 state any section, Rule, paragraph or provision relevant to the point of order

**53. Valid Points Of Order**

- 53.1 53.1 A point of order may be raised in relation to:
- 53.1.1 a motion, which, under Rule 24, or a question which, under Rule 54, should not be accepted by the Chair;
  - 53.1.2 a question of procedure;
  - 53.1.3 a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
  - 53.1.4 debate that is irrelevant to the matter under consideration;
  - 53.1.5 constitutes a tedious repetition of something already said;
  - 53.1.6 a matter that is outside the powers of Council;
  - 53.1.7 is offensive; or
  - 53.1.8 any act of disorder.
- 53.2 A point of order may not be raised to express a mere difference of opinion or to contradict a speaker

## Division 8 – Questions From the Community

### 54. Question Time

- 54.1 There must be a public question time at every Council meeting fixed under Rule 9 to enable members of the public to submit questions in writing to Council.
- 54.2 Questions submitted to Council:
- 54.2.1 must be in writing, state the name and address of the person submitting the question and the date;
  - 54.2.2 must be received by the Chief Executive Officer prior to 12noon on the day of the Council meeting; and
  - 54.2.3 will have the details of the authors verified as far as practicable
- 54.3 No person may submit more than five questions at any one meeting.
- 54.4 The Chair will read to those present at the meeting a summary of the questions which have been submitted in accordance with this Rule.
- 54.5 A question may be disallowed by the Chair if the Chair determines that it:
- 54.5.1 relates to a matter outside the duties, functions and powers of Council;
  - 54.5.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - 54.5.3 deals with a subject matter already answered;
  - 54.5.4 is aimed at embarrassing a Councillor or a member of Council staff;
  - 54.5.5 relates to personnel matters;
  - 54.5.6 relates to the personal hardship of any resident or ratepayer;
  - 54.5.7 relates to industrial matters;
  - 54.5.8 relates to contractual matters;
  - 54.5.9 relates to proposed developments;
  - 54.5.10 relates to legal advice;
  - 54.5.11 relates to matters affecting the security of Council property; or
  - 54.5.12 relates to any other matter which Council considers would prejudice Council or any person;
  - 54.5.13 relates to electoral matter during an election period

Any question which has been disallowed by the Chair must be made available to any other Councillor upon request.

- 54.6 A written response to the questions, will be sent to the person who asked the question. A copy of the questions and responses, will be tabled and inserted into the minutes of the following Council meeting.

## Division 9 – Petitions and Joint Letters

### 55. Petitions and Joint Letters

- 55.1 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 or other like application until the next Council meeting after that at which it has been presented.
- 55.2 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 disrespectful to Council and that the contents do not violate a Local Law.
- 55.3 Every Councillor presenting a petition or joint letter to Council must:
- 55.3.1 write or otherwise record their name at the beginning of the petition or joint letter; and
  - 55.3.2 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 the text of the preamble or request.
- 55.4 Every petition or joint letter presented to Council must be in writing, and contain the request of the petitioners or signatories and be signed by at least 12 people.
- 55.5 A petition must include a preamble on every page of a petition, consisting of the following words: “We the undersigned hereby petition the Stonnington City Council....”
- 55.6 Every petition or joint letter must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated.
- 55.7 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.
- 55.8 If a petition, joint letter or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer for consideration.

## **Division 10 – Voting**

### **56. 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 if required, identify a Councillor who has abstained from voting, and must then declare the result to the meeting.

### **57. Silence**

Voting must take place in silence.

### **58. Recount**

The Chair may direct that a vote be recounted to satisfy themselves of the result.

### **59. Casting Vote**

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

### **60. By Show of Hands**

Voting on any matter is by show of hands.

### **61. Procedure for a Division**

61.1 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.

61.2 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.

61.3 When a division is called for, the Chair must:

61.3.1 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. The Chair must then state, any authorised officer must record, the names of those Councillors voting in the affirmative; and

61.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The Chair must then state, any authorised officer must record, the names of those Councillors voting in the negative.

61.3.3 if required, then ask each Councillor wishing to abstain from voting to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise one of their hands. The Chair must then state, any authorised officer must record, the names of those Councillors abstaining from voting.



**62. 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:

- 62.1 a Councillor requesting, before the next item of business is considered, that their opposition to a resolution be recorded in the minutes; or
- 62.2 foreshadowing a notice of rescission where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

## Division 11 – Minutes

### 63. Confirmation of Minutes

- 63.1 At every Council meeting the minutes of the preceding meeting(s) must be dealt with as follows:
- 63.1.1 a copy of the minutes must be made available to each Councillor no later than 48 hours before the meeting;
- 63.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
- 63.1.3 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 63.1.3(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 they must put the question to the vote accordingly;

- 63.1.4 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;
- 63.1.5 the minutes must be collated annually and
- 63.1.6 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.

#### **64. 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.

#### **65. 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.

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

- 66.1 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:
  - 66.1.1 the date, place, time and nature of the meeting;
  - 66.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - 66.1.3 the names of the members of Council staff present;
  - 66.1.4 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;
  - 66.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
  - 66.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - 66.1.7 the vote cast by each Councillor upon a division;
  - 66.1.8 the vote cast by any Councillor who has requested that their vote be recorded in the minutes;
  - 66.1.9 questions upon notice;
  - 66.1.10 the failure of a quorum;
  - 66.1.11 any adjournment of the meeting and the reasons for that adjournment; and

- 66.1.12 the time at which standing orders were suspended and resumed.
- 66.2 The Chief Executive Officer must ensure that the minutes of any Council meeting are:
  - 66.2.1 published on Council's website; and
  - 66.2.2 available for inspection at Council's office during normal business hours.
- 66.3 Nothing in sub-Rule 66.2 requires Council or the Chief Executive Officer to make public any minutes relating to a Council meeting or part of a Council meeting closed to members of the public in accordance with section 66 of the Act.

**Division 12 – Recording of Proceedings****67. Recording of Proceedings**

- 67.1 Subject to any resolution of Council, the Chief Executive Officer (or other person authorised by the Chief Executive Officer) may record the proceedings of a Council meeting electronically.
- 67.2 Subject sub-Rule 67.1, a person must not operate photographic, audio or video recording equipment or any other recording device at any Council meeting without first obtaining the consent of the Chair. Such consent may at any time during the course of such meeting be revoked by the Chair or resolution of Council.

**Division 13 – Behaviour****68. Display of Placards and Posters**

- 68.1 A person must not display any placards or posters in the Council Chamber or in any building where a Council meeting or a Delegated Committee meeting is being or about to be held, other than outside the entrance to the building and even then only if it does not obstruct the entrance of the building.
- 68.2 A person must not:
- (a) display any offensive, indecent, insulting or objectionable item or words in the Council Chamber; or
  - (b) obstruct the entrance to the Council Chamber or a building where a Council meeting or a Delegated Committee meeting is being or about to be held.

**69. Public Addressing the Meeting**

- 69.1 Members of the public are not permitted 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 present 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.

**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, they 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 15.2 and 15.3 apply.

**72. Suspensions**

- 72.1 Council may suspend from a meeting any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct.
- 72.2 The duration of any suspension under this Rule shall be at Council's discretion but shall not exceed the balance of the meeting.

**73. Removal From Chamber**

- 73.1 The Chair may order the removal of any Councillor who has been suspended by Council in accordance with Rule 71;
- 73.2 The Chair may order the removal of:
- 73.2.1 any person, who disrupts any meeting or fails to comply with a direction;

- 73.2.2 any person, who the Chair reasonably believes has acted in breach of this Chapter; or
- 73.2.3 any person who the Chair reasonably believes has acted in breach of the Summary Offences Act 1966;
- 73.3 The Chair may issue a warning to any person before exercising the powers in sub-Rules 72.2 and 72.4.
- 73.4 The Chair may ask an authorised officer, security guard or member of the Victoria Police to cause the removal of any person who is the subject of an order under sub-Rules 72.1 or 72.2.

**Division 14 – Additional Duties of Chair****74. The Chair's Duties and Discretions**

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

- 74.1 must not accept any motion, question or statement which:
  - 74.1.1 may reasonably be considered to be defamatory, derogatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance of any Councillor, member of Council staff, or member of the community;
  - 74.1.2 relates to a matter outside the duties, functions and powers of Council;
  - 74.1.3 is aimed at embarrassing a Councillor, a member of Council staff or member of the community; and
- 74.2 must call to order any person who is disruptive or unruly during any meeting.



## Division 15 – Suspension of Standing Orders

### 75. Suspension of Standing Orders

- 75.1 The Chair or any Councillor may indicate a desire to suspend standing orders to expedite the business of a meeting. In which case:
- 75.1.1 the Chair may suspend standing orders with the support of the meeting;
  - 75.1.2 standing orders may be suspended by procedural motion.
- 75.2 the suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.
- 75.3 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:
- "That standing order be suspended to enable discussion on....."
- 75.4 No motion can be accepted by the Chair or lawfully be dealt with during any suspension of standing orders.
- 75.5 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
- "That standing orders be resumed."

## Division 16 – Miscellaneous

On occasions where a significant event has occurred preventing the conduct of normal physical Council meetings, legislation may be introduced to enable meetings to be conducted virtually and in such instances it is imperative in order to maintain transparency that:

- all virtual Council meetings, where public access is required under the Act, must be publicly available.
- where the Council takes up the option to conduct virtual meetings, all Council and joint meetings of the Council with other municipalities, must be streamed live through Council's website;
- where Council experiences technical difficulties in being able to broadcast a meeting to the public, the meeting must be adjourned until the issue is resolved; and
- if the technical issues are unresolved at the time, the meeting must be postponed to another time and date and in accordance with these Governance Rules or any other meeting procedure of Council.

These requirements would be in addition to any further directives issued at such time by the Minister of Local Government.

### 76. Meetings Conducted Remotely

If:

76.1 by law a meeting may be conducted electronically; and

76.2 Council decides that a meeting is to be conducted electronically,

the Chair may, with the consent of the meeting, modify the application of any of the Rules in this Chapter to facilitate the more efficient and effective transaction of the business of the meeting.

### 77. Procedure not Provided in This Chapter

In all cases not specifically provided for by this Chapter, reference must be made to the Standing Orders and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to Council proceedings).

### 78. Criticism of Members of Council Staff

78.1 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.

78.2 A statement under sub-Rule 78.1 must be made by the Chief Executive Officer, through the Chair, as soon as it is practicable after the Councillor who made the statement has finished speaking.

## CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES

### 1. Meeting Procedure Generally

If Council establishes a Delegated Committee:

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

### 2. Meeting Procedure can be Varied

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

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

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

## **CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES**

### **1. Introduction**

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

### **2. Meeting Procedure**

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

## CHAPTER 5 – DISCLOSURE OF CONFLICTS OF INTEREST

### 1. Introduction

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

### 2. Definition

In this Chapter:

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

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

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

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

and then immediately before the matter is considered at the meeting announcing to those present that 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.

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

#### **4. 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:

- 4.1 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Delegated Committee meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 4.2 intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Delegated Committee meeting commences a written notice:
  - 4.2.1 advising of the conflict of interest;
  - 4.2.2 explaining the nature of the conflict of interest and 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 Delegated Committee's relationship with or a gift from another person the:
    - (a) name of the other person;
    - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
  - 4.2.4 nature of that other person's interest in the matter,and then immediately before the matter is considered at the meeting announcing to those present that 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 dealt with.

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

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

- 5.1 are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Community Asset Committee meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 5.2 intend to be present must disclose that conflict of interest by providing to the Chief Executive Officer before the Community Asset Committee meeting commences a written notice:
  - 5.2.1 advising of the conflict of interest;
  - 5.2.2 explaining the nature of the conflict of interest and indicating whether it is a general conflict of interest or a material conflict of interest; and

- 5.2.3 detailing, if the nature of the conflict of interest involves a member of a Councillor's relationship with or a gift from another person the:
- (a) name of the other person;
  - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
- 5.2.4 nature of that other person's interest in the matter,

and then immediately before the matter is considered at the meeting announcing to those present that 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 Committee Asset Committee meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been dealt with.

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

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

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

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

- 7.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which they are preparing or contributing to the preparation of a Report for the consideration of a:
  - 7.1.1 Council meeting;
  - 7.1.2 Delegated Committee meeting;
  - 7.1.3 Community Asset Committee 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.

- 7.2 The Chief Executive Officer must ensure that the Report referred to in sub-Rule 7.1 records the fact that a member of Council staff disclosed a conflict of interest in the subject-matter of the Report.

- 7.3 If the member of Council staff referred to in sub-Rule 7.1 is the Chief Executive Officer:
- 7.3.1 the written notice referred to in sub-Rule 7.1 must be given to the Mayor;  
and
- 7.3.2 the obligation imposed by sub-Rule 7.2 may be discharged by any other member of Council staff responsible for the preparation of the Report.

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

- 8.1 A member of Council staff who has a conflict of interest in a matter requiring a decision to be made by the member of Council staff as delegate must, immediately upon becoming aware of the conflict of interest, provide a written notice to the Chief Executive Officer explaining the nature of the conflict of interest 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. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function**

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

**10. Retention of Written Notices**

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



## CHAPTER 6 – MISCELLANEOUS

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

- 1.1 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- 1.2 is attended by at least one member of Council staff; and
- 1.3 is not a Council meeting, Delegated Committee meeting or Community Asset Committee meeting

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

- (a) tabled at the next convenient Council meeting; and
- (b) recorded in the minutes of that Council meeting.

### 2. Confidential Information

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

## CHAPTER 7 – ELECTION PERIOD POLICY

### 1. INTRODUCTION

The Act provides that councils must adopt and keep in force, Governance Rules which must include an election period policy.

In summary, the Act provides that:

- (a) a council must develop, adopt and keep in force Governance Rules (section 60);
- (b) the Governance Rules must include an Election Period (Policy) - (sections 60 {e} and 69 {1});
- (c) there are various prohibitions on decision making during the election period - (see the definition in Appendix 1 and section 69 {2}); and
- (d) the powers of the Victorian Civil and Administrative Tribunal in relation to allegations of gross misconduct by a Councillor are suspended during the election period - (section 173 {1}).

The detailed statutory requirements are set out in Appendix 2.

### 2. AUTHORISING PROVISION

This Policy was adopted by Council on 31 August 2020 and replaces the previous Election Period Policy and Procedures adopted on 18 November 2019.

### 3. COMMENCEMENT DATE

This Policy is effective from 1 September 2020.

### 4. ACCESS TO THIS POLICY

This Policy will be published on the Council website and be available for inspection at Council's office(s).

### 5. OBJECTIVE

The objective of this Policy is to support and ensure the conduct of good governance for Council and the organisation through the transparency and accountability of Councillors, Council officers, and candidates during an election period.

### 6. POLICY PROVISIONS

#### 6.1 PRE-ELECTION PERIOD

During the pre-election period, Councillors should not engage in any activity which may be perceived as pre-election period campaigning where it involves the use of Council logos, publications, letterheads, photographs or other branding which may give the impression that it may be Council endorsed.

Councillors will not use their position as elected representatives or their access to Council staff and Council resources to gain media attention in support of an election campaign. This includes photographs or images taken or provided by Council for past Council activities or events.

## 6.2 CONDUCT DURING THE ELECTION PERIOD

During the election period, Councillors:

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

## 6.3 DECISION LIMITATIONS

Section 69 of the Act imposes some restrictions on Council decision making during the election period.

Accordingly, Council will not make a decision:

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

## 6.4 INAPPROPRIATE DECISIONS

In addition to complying with the statutory requirements, Council will avoid decisions that could affect voting at an election or decisions that may unreasonably bind an incoming Council and could be deferred until after the election. Examples of such matters include:

- (a) allocating community grants or other direct funding to community organisations;
- (b) major planning scheme amendments;
- (c) changes to strategic objectives and strategic plans;
- (d) adopting policy; or
- (e) advocating to other levels of government, parliamentarians or local government peak bodies.

## 6.5 MINISTERIAL EXEMPTION

If the Council considers that there are extraordinary circumstances where the municipality or the local community would be significantly disadvantaged by the Council not making a particular decision, the Council may, by resolution, request an exemption from the Minister for Local Government, in accordance with section 177 of the Act.

## **7. MEETINGS DURING THE ELECTION PERIOD**

### **7.1 COUNCIL MEETINGS**

#### **7.1.1 Webcasting**

Council meetings will continue to be webcast during the Election Period.

#### **7.1.2 Questions to Council from Members of the Public**

Questions to Council from members of the public will be suspended during the election period.

#### **7.1.3 Notices of Motion**

Notices of Motion will not be accepted during the election period.

### **7.2 MEETINGS OF DELEGATED COMMITTEES**

Delegated committees<sup>†</sup> can continue to meet during the election period subject to compliance with the spirit and relevant sections of this Policy (see Table 1).

### **7.3 MEETINGS OF COMMUNITY ASSET COMMITTEES**

Community asset committees<sup>‡</sup> can continue to meet during the election period subject to compliance with the spirit and relevant sections of this Policy (see Table 1).

### **7.4 MEETINGS OF THE AUDIT AND RISK COMMITTEE**

The Audit and Risk Committee can continue to meet during the election period subject to compliance with the spirit and relevant sections of this Policy (see Table 1).

### **7.5 OTHER COMMITTEES**

Other committees can continue to meet during the election period subject to compliance with the spirit and relevant sections of this Policy (see Table 1).

### **7.6 OTHER MEETINGS**

Briefings of Councillors can continue to be held during the election period.

### **7.7 WARD MEETINGS**

Ward meetings will be suspended during the election period.

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<sup>†</sup> At the time of adopting this Policy, Stonnington did not have any delegated committees.

<sup>‡</sup> At the time of adopting this Policy, Stonnington did not have any community asset committees.

## APPLICATION TO COMMITTEES

The clauses of this Policy which relate to committees are shown in Table 1.

| Clause     | Topic                |
|------------|----------------------|
| 1          | Introduction         |
| 2          | Authorisation        |
| 3          | Commencement Date    |
| 4          | Access to the Policy |
| 7.2 to 7.4 | Meetings             |

Table 1

## 8. EVENTS

### 8.1 GENERAL

Civic events will cease during this time.

## 9. USE OF COUNCIL RESOURCES

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

### 9.1 MEETING ROOMS, STATIONERY AND EQUIPMENT

Council resources, including offices, support staff, hospitality services, equipment and stationery will be used exclusively for normal Council business during the election period, and will not be used for the personal advantage of any Councillor or candidate in connection with any election. No Council owned asset or resources such as logos, letterheads, business cards, photos or other Council branding will be used for, or linked in any way, to a candidate's election campaign.

Council funded equipment, including laptops, tablets, printers and mobile phones are not to be used by Councillors for election purposes or in a manner that could be perceived as supporting or being connected with a candidate's election campaign.

### 9.2 MAYORAL VEHICLE

The Mayor may continue to use the mayoral vehicle in connection with official duties and for private use, but not in connection with any electoral or campaign matter (see the definition in Appendix 1).

### 9.3 SPEECHES

Speeches for Councillors will only be prepared by Council staff in relation to events that are part of the normal services or operations of the Council and such speeches will not be circulated or available for publication.

## 9.4 PHOTOGRAPHS AND IMAGES

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

## 9.5 PUBLICATIONS

### 9.5.1 General

Council publications will continue to be updated and published/distributed during the election period providing that there is no reference to electoral matters.

### 9.5.2 Media releases

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

### 9.5.3 Website

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

- (a) the agenda and minutes for any Council or delegated committee meetings;
- (b) the Annual Report;
- (c) operational information; and
- (d) information that is a statutory requirement.

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

Information on Council's website with regard to sitting Councillors will be limited to statements of facts about their roles and responsibilities and contact details. Biographical information will be removed.

## 9.6 ELECTION SIGNAGE

Permits will not be granted for election signage on Council land.

Candidates may apply for a permit to place election signage in a public place.

Failure to obtain a permit will result in Council issuing a Notice to Comply to immediately remove the signage, issuing an infringement and/or removing/impounding the sign. Infringements may be issued under Council's General Local Law 2018 and/or the Environment Protection Act 1970 (EPA Act).

Any costs incurred by Council to remove signage and/or any costs caused by the signage, for example, damage to trees, may be charged to the candidate.

Victoria Police will be contacted in the event of anyone attempting to obstruct Council officers removing signage.

Council will report all instances of the display of electoral signage on Council land or without a permit in a public place, to the Victorian Electoral Commission.

If election signage is displayed on public land in the municipality, Council will contact the relevant government agency to request the sign be removed.

In accordance with the EPA Act, advertising material/documents may not be affixed to any fixed structure e.g. light poles, traffic lights etc.

## **10. PUBLIC CONSULTATION**

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

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

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

Therefore, no public consultation will be undertaken during the election period in relation to:

- (a) major policy decisions;
- (b) significant issues which require public consultation pursuant to Council's Community Engagement Policy, such as:
  - i. a revised budget;
  - ii. a proposed local law;
  - iii. the Council Plan;
  - iv. the Financial Plan; or
  - v. the Asset Plan.

Consultation for the purpose of planning permit applications and operational issues such as canvassing residents' views on small-scale traffic treatments, installation of single trees and the like will be allowed as they are operational in nature and are unlikely to impact the conduct of the election.

## **11. POLICY REVIEW**

While there is no statutory requirement to review this Policy, Council will review the Policy:

- (a) no sooner than six months before the next general election; and
- (b) no later than three months before the next general election.

## **12. POLICY AMENDMENTS**

Amendments to the Policy may be made by the Chief Executive Officer to reflect legislative or organisational changes. The Chief Executive Officer must notify the Councillors and members of Council appointed committees of any such amendments.

## APPENDICES

### APPENDIX 1 - DEFINITIONS

In this Policy, the following terms have the meaning indicated:

- (a) **committee** means a delegated committee, community asset committee, the Audit and Risk Committee and any other committee established by the Council;
- (b) **community asset committee** means a community asset committee established by a Council under section 65 of the LGA 2020;
- (c) **Councillor Code of Conduct** means the Councillor Code of Conduct developed by a Council under section 139 of the LGA 2020;
- (d) **delegated committee** means a delegated committee established by a Council under section 63 of the LGA 2020; and
- (e) **election period** means the period that starts at the time that nominations close on nomination day and ends at 6:00 pm on election day;
- (f) **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;
- (g) **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;
- (h) without limiting the generality of the definition of electoral matter, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on:
  - i. the election; or
  - ii. a candidate in the election; or
  - iii. an issue submitted to, or otherwise before, the voters in connection with the election;
- (i) **nomination day** means the last day on which nominations to be a candidate at a Council election may be received in accordance with this Act and the Regulations;
- (j) **Pre-election period** means the period three (3) months prior to the election period; and
- (k) **standards of conduct** means the standards of conduct prescribed under section 139(3)(a) to be included in a Councillor Code of Conduct.



**APPENDIX 2 – STATUTORY REQUIREMENTS**

The detailed provisions of the *Act* are shown below.

**Decision making during the election period****Section 69(2):**

An election period policy must prohibit any Council decision during the election period for a general election that:

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

**Section 69(3):**

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

**Section 69(4):**

A Council decision made in contravention of subsection (2)(a) or (b) is invalid.

**Section 69(5):**

Any person who suffers any loss or damage as a result of acting in good faith on a Council decision that is invalid by virtue of subsection (4) is entitled to compensation from the Council for that loss or damage.

**APPENDIX 3 – COUNCIL POLICIES AND RELATED DOCUMENTS**

This Policy has been developed having regard to Council's:

- Community Engagement Policy;
- Councillor Expenses Policy;
- Councillor Gift Policy;
- Council Social Media Policy;
- Public Transparency Policy; and
- Web Casting of Council Meetings Policy.

*Documents:*

- Councillor Code of Conduct

**APPENDIX 4 – RELEVANT LEGISLATION**

This Policy has been developed having regard to the:

- Charter of Human Rights and Responsibilities Act 2006;
- Local Government Act 1989;
- Local Government Act 2020;
- Privacy and Data Protection Act 2014; and
- relevant Regulations.