

Bayside City Council

Governance Rules



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Commitment

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

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

Council seeks to apply good governance in order to:

- engage our community in decision making;
- achieve the best outcomes for the Bayside community, including future generations;
- ensure transparency of Council decisions, actions and information;
- ensure the ongoing financial viability of Council;
- increase 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 interest of the Bayside 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 a 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 of Meetings and record and make available Meeting records (Minutes and live streamed Meetings);
- be informed in its decisions making through community engagement advisory committees and Council officer reports; and
- require the disclosure and management of conflicts of interest.

The Governance Rules also include:

- rules for the conduct of Council and Councillors during election periods through the Election Period Policy; and
- provision for the use of Council's Common Seal.

Section 60(2) Local Government Act 2020

The Governance Rules must provide for a Council to -

- (a) *consider and make decisions on any matter being considered by the Council fairly and on the merits; and*
 - (b) *institute decision making processes to ensure that any person whose rights will be directly affected by a decision of the Council is entitled to communicate their views and have their interests considered.*
-

2. Principles

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

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

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

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

3. Nature of Rules

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

4. Date of Commencement

These Governance Rules commence on 20 September 2022.

5. Contents

These Governance Rules are divided into the following Chapters for ease of reading:

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	Meeting Procedure for Advisory Committees
Chapter 6	Meeting Procedure for Joint Council Meetings
Chapter 7	Disclosure of Conflicts Of Interest
Chapter 8	Miscellaneous
Chapter 9	Use of Council's Common Seal
Chapter 10	Council Records
Chapter 11	Election Period Policy

6. Definitions

In these Rules:

Act	means <i>Local Government Act 2020</i>
Advisory Committee	means a committee established by the Council, that provides advice to — (a) the Council; or (b) a member of Council staff who has been delegated a power, duty or function of the Council; and which is not a Delegated Committee or Community Asset Committee.
Agenda	means a document containing the date, time and place of a Meeting and a list of business to be transacted at the Meeting.
Attend	attending and in attendance include attend, attending or in attendance by electronic means.
Audit and Risk Committee	means the Audit and Risk Committee established by a Council under section 53.
Authorised Officer	has the same meaning as in the <i>Local Government Act 1989</i> .
Chairperson	means the Chairperson of a Meeting and includes an acting, temporary and substitute Chairperson.
Chamber	means any room where the Council holds a Council Meeting.
Chief Executive Officer	means the person occupying the office of Chief Executive Officer of Council, and includes a person acting in that office.
Committee Meeting	means a Meeting of a Delegated Committee.
Common Seal	means the common seal of Council.
Council	means Bayside City Council.
Councillor	means a Councillor of Council.

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Council Meeting	means a Meeting of the Council convened in accordance with these Governance Rules and includes a scheduled (fixed) Meeting and unscheduled (Special Council) Meeting.
Delegate	has the same meaning as in the Act.
Delegated Committee	has the same meaning as in the Act.
Delegated Committee Meeting	means a Meeting of a Delegated Committee.
Deputy Mayor	means the Deputy Mayor of Council and any person appointed by Council to act as Deputy Mayor.
Director	means a senior member of Council staff holding the position of Director or another position (however designated) which reports directly to the Chief Executive Officer.
Disorder	means any disorderly conduct of a member of the Gallery or a Councillor and includes: <ul style="list-style-type: none">• interjecting when another person is speaking, except, in the case of where a Councillor is raising a Point of Order;• making comments that are defamatory, malicious, abusive or offensive;• refusing to leave the Meeting when requested, ordered or directed to do so by the Chairperson in accordance with the Act and these Rules; and• engaging in any other conduct which prevents the orderly conduct of the Meeting.
Foreshadowed Motion	means a matter raised in the relevant section of the Council Meeting that a Councillor intends to put forward a Motion.
Majority of Votes	means a majority of Councillors present at the time of a vote voting in favour of a matter.
Mayor	means the Mayor of Council and any person elected or appointed by Council to be acting as Mayor.
Meeting	means a Council Meeting or a Delegated Committee Meeting.
Member	means a member of any committee to which these Rules apply.
Minutes	means the official record of the proceedings and decisions of a Meeting.
Motion	means a proposal framed in a way that will result in the opinion of Council being expressed, and a Council decision being made, if the proposal is adopted.
Notice of Motion	means a notice setting out the text of a Motion which a Councillor proposes to move at a Council Meeting.
Notice of Rescission	means a Notice of Motion to rescind a resolution made by Council.
On Notice	means held or deferred to enable preparation of a response.
Point of Order	means a procedural point (about how the Meeting is being conducted), not involving the substance of a matter before a Meeting.
Procedural Motion	means a Motion that relates to a procedural matter only and which is not designed to produce any substantive decision but used merely as a formal procedural measure.
Rule or sub-Rule	means a rule or sub-Rule included in these Governance Rules.

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Urgent Business

means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Meeting.

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

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); and
- (c) Without limiting anything in paragraph (b) of this sub-Rule:
 - (i) before making a decision that will directly affect the rights of a person, Council (including any person acting with the delegated authority of Council) must identify the person or persons whose rights will be directly affected, give notice of the decision which Council must make and ensure that such person or persons have an opportunity to communicate their views and have their interests considered before the decision is made;
 - (ii) if a report to be considered at a Council Meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered;

- (iii) if a report to be considered at a Delegated Committee Meeting concerns subject-matter which will directly affect the rights of a person or persons, the Report must record whether the person has or persons have been provided with an opportunity to communicate their views and have their interests considered; and
- (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

CHAPTER 2 – MEETING PROCEDURE FOR COUNCIL MEETINGS

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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:

- (1) provide for the election of the Mayor and any Deputy Mayor;
- (2) provide for the appointment of any Acting Mayor; and
- (3) provide for the procedures governing the conduct of *Council Meetings*.

3. Definitions and Notes

- (1) In this Chapter:

'Agenda' means the notice of a Meeting setting out the business to be transacted at the Meeting;

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

'minute book' means the collective record of proceedings of Council;

'municipal district' means the municipal district of Council;

'Notice of Motion' means a notice setting out the text of a Motion, which it is proposed to move at the next relevant Meeting;

'Notice of Rescission' means a Notice of Motion to rescind a resolution made by Council; and

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

- (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 or delegate 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, or such other visual or audible means as the Chief Executive Officer determines.

6. Determining the Election of the Mayor

- (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.
- (2) Any nominations for the office of Mayor must be seconded by another Councillor.
- (3) Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor:

Single Nomination

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

Multiple Nominations and Candidate Elected On First Vote

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

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

- (7) 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,

- (d) 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.
- (8) If one of the remaining candidates receives the votes of an absolute majority of Councillors, that candidate is duly elected. If none of the remaining candidates receives the votes of an absolute majority of Councillors 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
- (9) For the purposes of sub-Rules 6 (7) and 6 (8), if no candidate can be determined to have the fewest number of votes due to two or more candidates having an equality of votes then the candidate who is to be declared a defeated candidate will be determined by lot.
- (10) 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 or Two Remaining Candidates and No Candidate Obtaining An Absolute Majority On First Vote

- (11) In the event of two candidates being nominated or remaining, and neither candidate receiving the votes of an absolute majority of Councillors, the Councillors *in attendance* at the meeting will consider whether to resolve to conduct a new election at a later date and time.
- (12) 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 6 will continue to govern the election of the Mayor, and ultimately any candidate whose nomination is the sole nomination or any candidate who receives the votes of an absolute majority of Councillors will be declared duly elected; 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 6 (11) and this sub-Rule 6 (12) must again be followed.

7. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

- (1) any office of Deputy Mayor; or
- (2) Chair of a Delegated Committee

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

- (3) Chief Executive Officer is a reference to the Mayor; and
- (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:

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

Part C – Meeting Procedure

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

Division 1 – Notices of Meetings and Delivery of Agendas

9. Dates and Times of Meetings Fixed by Council

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

10. 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.

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

- (1) The Mayor or at least 3 Councillors may by a written notice call a Special Council Meeting.
- (2) The notice must specify the date and time of the Special Council Meeting and the business to be transacted.
- (3) The notice to be delivered or sent electronically to the Chief Executive Officer in sufficient time to enable reasonable notice of the Special Council Meeting to be given to all Councillors.
- (4) The Chief Executive Officer must convene the Special Council Meeting as specified in the notice.
- (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.

Explanatory note:

Council is also able to call a Special Council Meeting. This must be done by resolution. The Chief Executive Officer can call a Special Council Meeting to be held within 14 days of the result of the Council election being declared.

12. Council / Committee Meeting Location

- (1) Council Meetings, and Delegated Committee Meetings will be held in the Council Chambers, or any building within the Civic Centre Precinct as determined by the Mayor, or another location outside the Civic Centre Precinct by resolution of the Council.
- (2) Special Council Meetings may be held at the Council Chambers or the Corporate Centre as determined by the Mayor or by the formal notice calling the Special Meeting of Council.

13. Notice of Meeting

- (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 no fewer than 48 hours before the Meeting.
- (2) Notwithstanding sub-Rule 13 (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 the Councillor's absence.
- (3) Reasonable notice of each Council Meeting must be provided to the public. Council may do this:
 - (a) for Meetings which it has fixed by preparing a schedule of Meetings annually, twice yearly or from time-to-time, and arranging publication of such schedule in a newspaper generally circulating in the municipal district either at various times throughout the year, or prior to each such Council Meeting; and
 - (b) for any Meeting by giving notice
 - i) on its website;
 - ii) at the Corporate Centre; or
 - iii) in at least one daily newspaper generally circulating in the municipal district; and
 - iv) or unless time does not allow this to occur in a newspaper, in which case the posting of a notice setting out the details must be displayed on Council's website and the entrance of the Council Chambers and Corporate Centre.

Division 2 – Quorums

14. Quorums

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

15. Inability to Obtain a Quorum

If after 30 Minutes from the scheduled starting time of any Council Meeting, a quorum cannot be obtained:

- (1) the Meeting will be deemed to have lapsed;
- (2) the Mayor must convene another Council Meeting, the Agenda for which will be identical to the Agenda for the lapsed Meeting; and
- (3) the Chief Executive Officer must give all Councillors written notice of the Meeting convened by the Mayor.

16. Inability to Maintain a Quorum

- (1) If during any Council Meeting, a quorum cannot be maintained then Rule 14 will apply as if the reference to the Meeting is a reference to so much of the Meeting as remains.
- (2) Sub-Rule 16 (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.

17. Inability to Achieve / Maintain a Quorum due to Conflicts of Interest of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the Chair must:

- (a) defer the item of business in respect of which there is or is likely to be a disclosure of a conflict of interest by one or more Councillors, and direct the Chief Executive Officer to include that item of business on an Agenda for a future Council Meeting; or
- (b) adjourn the Meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.

18. Adjourned Meetings

- (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.
- (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.
- (3) If it is impracticable for the notice given under sub-Rule 18 (2) to be in writing, the Chief Executive Officer must give notice to each Councillor by telephone or in person.

19. Time limits for Meetings

- (1) A Council Meeting or a Special Council Meeting or Delegated Committee Meeting must not continue after 11:00pm unless a majority of Councillors in attendance vote in favour of it continuing.
- (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).
- (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.
- (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 18(2) and 18(3) apply.

20. Cancellation or Postponement of a Meeting

- (1) The Chief Executive Officer may, in the case of an administrative matter or an emergency necessitating the cancellation or postponement of a Council Meeting or Special Council Meeting, cancel or postpone a Council Meeting or Special Council Meeting.
- (2) 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 20 (1).

Division 3 – Business of Meetings

21. Agenda and the Order of Business

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

22. Change to Order of Business

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

23. Urgent Business

If the Agenda for an Council Meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council and only then if it:

- (1) relates to or arises out of a matter which has arisen since distribution of the Agenda; and
- (2) cannot safely or conveniently be deferred until the next Council Meeting.

24. Reports of Delegates

- (1) A Councillor or member of Council staff who is a delegate may present to Council on the deliberations of the external body, association, group or working party in respect of which they are a delegate or an attendee at a Council approved conference / seminar.
- (2) In presenting, the Councillor may for up to 3 Minutes:
 - (a) address Council on the contents of any written report which the Councillor has submitted for inclusion in the Agenda; or
 - (b) provide a verbal report on any matters otherwise arising out of the deliberations of the external body, association, group or working party.

Division 4 – Motions and Debate

25. Councillors May Propose Notices of Motion

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

26. Notice of Motion

- (1) A Councillor can submit to the Chief Executive Officer a Notice of Motion for inclusion in the Agenda for a Meeting.
- (2) A Notice of Motion must be in writing signed by a Councillor, (including by electronic means) and be lodged with or sent to the Chief Executive Officer no later than 9am 7 days before the day of the Meeting at which it is intended to be considered to ensure its inclusion in the Agenda.

Explanatory note:

For avoidance of confusion, if a Meeting is to be held on a Tuesday, a Notice of Motion must be signed and lodged no later than 9am on the previous Tuesday.

- (3) The notice of Motion submitted to the Chief Executive Officer must include the words for the proposed Motion, and include a written rationale for the proposed Motion to be submitted.
- (4) The Chief Executive Officer may reject any Notice of Motion which:
 - (a) is vague or unclear in intention;
 - (b) relates to a matter that can be addressed through the operational service request process;
 - (c) relates to a matter that has been previously resolved by Council within the previous 6 months, or is acted upon;
 - (d) is beyond Council's power to pass; or
 - (e) if passed would result in Council otherwise acting invalidly;but must:
 - (f) give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so; and
 - (g) notify in writing the Councillor who lodged it of the rejection and reasons for the rejection.
- (5) The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda.

- (6) The Chief Executive Officer may arrange for comments of members of Council staff to be provided to Councillors prior to the Notice of Motion being published in the Agenda for the relevant Council Meeting.
- (7) The Chief Executive Officer must cause all Notices of Motion to be numbered, dated and entered in the Notice of Motion register in the order in which they were received.
- (8) Except by leave of Council, each Notice of Motion before any Meeting must be considered in the order in which they were entered in the Notice of Motion register.
- (9) If a Councillor who has given a Notice of Motion is absent from the Meeting or fails to move the Motion when called upon by the Chair, any other Councillor may move the Motion.
- (10) If a Notice of Motion is not moved at the Council Meeting at which it is listed, it lapses.

27. Chair's Duty

Any Motion which is determined by the Chair to be:

- (1) defamatory;
- (2) objectionable in language or nature;
- (3) vague or unclear in intention;
- (4) outside the powers of Council; or
- (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.

The Chair of the Council Meeting or Special Council Meeting or Delegated Committee Meeting must acknowledge and recognise the first Councillor to rise to their feet as the first speaker to address the Chair in order to move a Motion, unless for reasons of sickness or disability where a raised hand will be accepted by the Chair.

For the purpose of Special Committee Meetings, the Chair of the Meeting must acknowledge and recognise the first Councillor to raise their hand as the first speaker to address the Chair in order to move a Motion.

28. Introducing a Motion or an Amendment

The procedure for moving any Motion or amendment is:

- (1) the mover must state the Motion without speaking to it;
- (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;

- (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?"
- (4) if no Councillor indicates opposition or a desire to speak to it, the Chair may declare the Motion or amendment carried without discussion;
- (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;
- (6) after the mover has addressed the Meeting, the seconder may address the Meeting;
- (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;
- (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;
- (9) 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 Chairperson or members of Council staff present at the Meeting;
- (10) the chair is unable to move or second a Motion, and may only if necessary debate a Motion when all Councillors who wish to speak to it have done so, and just before closure of debate by the mover of the Motion; and
- (11) if the chair wishes to move, or second a Motion then the Mayor or Deputy Mayor must take the Chair or, if there is no Mayor or Deputy Mayor, the Meeting must elect a temporary Chair where upon the Chair must vacate the Chair and not return to it until the Motion has been resolved upon.

29. Right of Reply

- (1) The mover of a Motion has a right of reply to matters raised during debate.
- (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.
- (3) Except for the mover of a Motion who has the right of reply, all other Councillors can only speak once to the Motion before the Chair.

30. Moving an Amendment

- (1) Subject to sub-Rule 30 (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.
- (2) A Motion to confirm a previous resolution of Council cannot be amended.

- (3) An amendment must not be directly opposite to the Motion.
- (4) The mover of an amendment cannot exercise any right of reply.

31. Who May Propose an Amendment

- (1) An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original Motion.
- (2) Any one Councillor cannot, without the leave of the Chair, move more than two amendments in succession.
- (3) Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original Motion.
- (4) Debate on an amendment must be restricted to the terms of the amendment.

32. How Many Amendments May be Proposed

- (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.
- (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.

33. An Amendment Once Carried

- (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.
- (2) The mover of the original Motion retains the right of reply to that Motion.

34. Foreshadowing Motions

- (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.
- (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.
- (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.

- (4) A foreshadowed Motion has no procedural standing and is merely a means of assisting the flow of a Meeting. The Chair is not obliged to accept foreshadowed Motions.

35. Withdrawal of Motions

- (1) Before any Motion is put to the vote, it may be withdrawn by the mover and seconder with the leave of Council, in which case, the Chair must call for a substitute mover and seconder and, if no such substitute is forthcoming, the Motion will lapse.
- (2) If the majority of Councillors objects to the withdrawal of the Motion, it may not be withdrawn.

36. 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.

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

- (1) The Chair may decide to put any Motion to the vote in several parts.
- (2) The Chair may allow or request a Councillor to move 'items' in block.

38. 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.

39. Motions in Writing

- (1) The Chair may require that a complex or detailed Motion be in writing.
- (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.

40. 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.

41. Debate Must be Relevant to the Motion

- (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.
- (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.
- (3) A speaker to whom a direction has been given under sub-Rule 41 (2) must comply with that direction.

42. Speaking Times

- (1) A Councillor must not speak longer than the time set out below, unless granted an extension by the Chair:
 - a) the mover of a Motion or an amendment which has been opposed: 4 Minutes;
 - b) the seconder of a Motion or an amendment: 4 Minutes;
 - c) any other Councillor: 4 Minutes;
 - d) the mover of a Motion exercising a right of reply: 2 minute;
 - e) a Councillor's answer to a question by another Councillor: 1 minute; and
 - f) a Councillor when clarifying a matter or giving a personal explanation: 1 minute.
- (2) Only one extension is permitted for each speaker.
- (3) A Motion to extend the speaking time cannot be moved:
 - (a) until the original speaking time has expired; and
 - (b) if another speaker has already commenced their contribution to the debate; and must be seconded.
- (4) Any extended speaking time must not exceed 1 minute.
- (5) All speakers must be timed, and a warning signal sound when 30 seconds of the allocated time is remaining.

43. Addressing the Meeting

If the Chair so determines:

- (1) any person addressing the Chair must refer to the Chair as:
 - (a) Madam Mayor; or
 - (b) Mr Mayor; or
 - (c) Madam Chair; or
 - (d) Mr Chair; oras the case may be;
- (2) all Councillors, other than the Mayor, must be addressed as
Cr(name);
- (3) all members of Council staff, must be addressed as: Mr, Ms, or as the case may be
.....(name); as appropriate, or by their official title;
- (4) except for the Chair, any Councillor who addresses the Meeting at a Council Meeting or Special Council Meeting must stand and direct all remarks through the Chair;
- (5) it will not be necessary for Councillors to rise when speaking to the Chair at a Delegated Committee Meeting or matters considered in a closed Meeting of Council (Confidential Business) in accordance with section 66(2)(a) of the *Local Government Act 2020*; and
- (6) despite sub-clause (4), the Chair may permit any Councillor or person to remain seated while addressing the Chair at a Council or Special Council Meeting for reasons of sickness, infirmity, disability or otherwise at the Chair's discretion.

44. Right to Ask Questions

- (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.
- (2) The Chair has the right to limit questions and direct that debate be commenced or resumed.

Division 5 – Procedural Motions

45. Procedural Motions

- (1) Unless otherwise prohibited, a procedural Motion may be moved at any time and must be dealt with immediately by the Chair.
- (2) Procedural Motions require a seconder.
- (3) The mover of a procedural Motion must not have moved, seconded or spoken to the question before the Chair or any amendment of it.
- (4) The mover of a procedural Motion does not have a right of reply.
- (5) 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
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 Chair; (b) When another Councillor is speaking	Motion and any amendment postponed to the stated time and/or date	Debate continues unaffected	Yes
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 Chair; (b) When another Councillor is speaking; or (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
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 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

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
Alter the order of business	That item xx list on the Agenda be brought forward and dealt with at this point of the Meeting.	/any Councillors	At a Meeting to elect the Mayor or During any debate	Alters the order of business for the Meeting	Items continue to be considered in the order as listed.	No
Suspension of Standing Orders	That Standing Orders be suspended .. (reason to be provided)	Any Councillor		The rules of the Meeting are temporarily suspended for the specific reason given in the Motion. No debate or decision other than a Motion to resume Standing Orders is permitted	The Meeting continues unaffected.	No
Resumption of Standing Orders	That Standing Orders be resumed	Any Councillor	When Standing Orders have not been suspended	The temporary suspension of the rules of the Meeting is removed.	The Meeting cannot continue	No
Consideration of confidential matters(s) (Close the Meeting to members of the public)	That in accordance with Section 66(2)(a) of the LGA 2020 the Meeting be closed to members of the public for the consideration of item xx is confidential as it relates to (insert reason)	Any Councillor	During the election of the Mayor / Deputy Mayor	The Meeting is closed to members of the public	The Meeting continues to be open to the public	Yes
Reopen the Meeting	That the Meeting be reopened to members of the public	Any Councillor		The Meeting is reopened to the public	The Meeting remains closed to the public.	No

Division 6 – Rescission Motions

46. Notice of Rescission

- (1) A Councillor may propose a Notice of Rescission provided:
- (a) it has been signed and dated by at least three Councillors;
 - (b) the resolution proposed to be rescinded has not been acted on; and
 - (c) the Notice of Rescission is delivered to the Chief Executive Officer within 48 hours of the resolution having been made setting out -
 - i) the resolution to be rescinded; and
 - ii) the Meeting and date when the resolution was carried.

Explanatory note:

It should be remembered that a Notice of Rescission is a form of notice of Motion.

Accordingly, all provisions in this Chapter regulating Notices of Motion equally apply to Notices of Rescission.

- (2) A resolution will be deemed to have been acted on if:
- (a) its contents have or substance has been communicated in writing to a person whose interests are materially affected by it; or
 - (b) a statutory process has been commenced
- so as to vest enforceable rights in or obligations on Council or any other person.

Explanatory note:

If Council resolves to give Notice of a Decision to Grant a Planning Permit and the Notice is physically issued to the planning permit applicant (or the applicant's agent) or a letter or email is sent to the planning permit applicant (or the applicant's agent) advising of Council's decision, the resolution will have been 'acted on'. Its contents will have been formally communicated to a person whose interests are materially affected so as to vest enforceable rights in the applicant and any objectors wishing to appeal, as well as obligations on Council to comply with its duties under the Planning and Environment Act 1987.

- (3) The Chief Executive Officer or an appropriate member of Council staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a Notice of Rescission which has been delivered to the Chief Executive Officer in accordance with sub-Rule 46 (1)(c),
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

Explanatory note:

By way of example, assume that, on a Tuesday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Tuesday. Assume also that, immediately after that resolution is made, a Councillor lodges a Notice of Motion to rescind that resolution. Finally, assume that the Notice of Rescission would not be dealt with until the next Tuesday evening (being the evening of the day on which the planning appeal is to be heard).

In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the Notice of Rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the Notice of Rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.

Sub-Rule 46 (3) would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

47. If Lost

If a Motion for 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.

48. 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 90 days from the date on which it lapsed.

49. May be Moved by Any Councillor

A Motion for rescission listed on an Agenda may be moved by any Councillor in attendance but may not be amended.

50. When Not Required

- (1) Unless sub-Rule 50 (2) applies, a Motion for rescission is not required where Council wishes to change policy.
- (2) The following standards apply if Council wishes to change policy:
 - (a) 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
 - (b) 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

51. 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.

52. Chair May Adjourn to Consider

- (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.
- (2) All other questions before the Meeting are suspended until the point of order is decided.

53. Dissent From Chair's Ruling

- (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".
- (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, temporary Chair elected by the Meeting) must take the Chair's place.
- (3) The Deputy Mayor or temporary Chair must invite the mover to state the reasons for their dissent and the Chair may then reply.
- (4) The Deputy Mayor or temporary Chair must put the Motion in the following form:

"That the Chair's ruling be dissented from."
- (5) If the vote is in the negative, the Chair resumes the Chair and the Meeting proceeds.
- (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.
- (7) The defeat of the Chair's ruling is in no way a Motion of censure or non-confidence in the Chair, and should not be so regarded by the Meeting.

54. Effect of Ruling

If the Chair:

- (a) rules in favour of the point of order, the speaker may continue and no Councillor must do or say anything which would cause another like point of order to be raised;
or
- (b) rules against the point of order the speaker may continue.

55. Procedure for Point of Order

A Councillor raising a point of order must:

- (1) state the point of order; and
- (2) state any section, Rule, paragraph or provision relevant to the point of order before resuming their seat.

56. Valid Points of Order

A point of order may be raised in relation to anything which:

- (1) a Motion, which, under Rule 27, or a question which, under Rule 57, should not be accepted by the Chair;
- (2) a question of procedure;
- (3) a Councillor who is not conducting themselves in accordance with the Councillor Code of Conduct;
- (4) debate that is irrelevant to the matter under consideration;
- (5) constitutes a tedious repetition of something already said;
- (6) a matter that is outside the powers of Council;
- (7) is offensive; or
- (8) any act of Disorder.

Explanatory note:

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

Division 8 – Public Question Time

57. Question Time

- (1) There must be a public question time at every Council Meeting fixed under Rule 9 to enable members of the public to submit questions to Council.
- (2) Sub-Rule 57 (1) does not apply during any period when a Meeting is closed to members of the public in accordance with section 66(2) of the Act.
- (3) Public question time will not exceed 15 Minutes in duration.
- (4) Questions submitted to Council must be:
 - (a) in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council; and
 - (b) sent electronically or delivered to Council's Corporate Centre by 9:00 am on the day immediately preceding the day of the Council Meeting.
- (5) No person may submit more than 2 questions at any 1 Meeting. A question may be split into a maximum of two parts only. If more than two parts to a question are received, only the first two parts will be considered. Similarly, if more than two questions are received, only the first two questions will be considered. All parts of the question must be relevant to the same subject of enquiry.
- (6) The Chair must read to those present at the Meeting a question which has been submitted in accordance with this clause.
- (7) 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.
- (8) There is no requirement for a questioner to be present at the meeting in order to have their question and the response read out.
- (9) A question may be disallowed by the Chief Executive Officer (or, at the Meeting, by the Chair) if the Chief Executive Officer or Chair determines that it:
 - (a) relates to a matter outside the duties, functions or powers of Council;
 - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - (c) deals with a subject matter already publicly answered, or is a repetitious or vexatious question from the same questioner;
 - (d) is aimed at embarrassing a Councillor or a member of Council staff;
 - (e) Council business information;
 - (f) security information;
 - (g) land use planning information;

- (h) law enforcement information;
 - (i) legal privileged information;
 - (j) personal information, which if released would result in the unreasonable disclosure of information about any person or their personal affairs;
 - (k) private commercial information;
 - (l) confidential meeting information, being the records of meetings closed to the public under section 66(2)(a) of the *Local Government Act 2020*;
 - (m) internal arbitration information, being information specified in section 145 of the *Local Government Act 2020*;
 - (n) Councillor Conduct Panel confidential information, being information specified in section 169 of the *Local Government Act 2020*;
 - (o) information prescribed by the regulations to be confidential information;
 - (p) information that was confidential information for the purposes of section 77 of the *Local Government Act 1989*.
- (10) Any question which has been disallowed by the Chief Executive Officer or Chair must be made available to any other Councillor upon request.
- (11) All questions and answers must be as brief as possible, and no further questions arising out of anything said will be allowed, and no discussion may be allowed other than by Councillors for the purposes of clarification.
- (12) Like questions may be grouped together and a single answer provided.
- (13) The Chair may nominate a Councillor or the Chief Executive Officer to respond to a question.
- (14) The Chair or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written copy of the answer will be sent to the person who asked the question.
- (15) The name of the questioner, the question and the response (if the question and response are read out at the meeting) must be recorded in the Minutes, as an official record of the questions dealt with at the Meeting.
- (16) Where the 15 minutes allotted to Public Question Time has expired, the remaining questions and responses will not be read at the Meeting and will not be recorded in the Minutes of the Meeting. A written response will be provided to all questioners.

Division 9 – Petitions and Joint Letters

58. Petitions and Joint Letters

- (1) Unless Council determines to consider it as an item of urgent business, no Motion (other than a Motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next Council Meeting after that at which it has been presented.
- (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.
- (3) Every Councillor presenting a petition or joint letter to Council must 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 prayer or request.
- (4) Every hard copy petition or joint letter presented to Council must be in writing (other than pencil), typing or printing, contain the request of the petitioners or signatories and be signed by at least 15 people, and will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council Meeting.
- (5) A petition must include a prayer on every page of a petition, consisting of the following words: *“We the undersigned hereby petition Bayside City Council....”*
- (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.
- (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.
- (8) Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- (9) The only Motions that may be moved in relation to petitions set out in the Agenda are:
 - (a) That the petition be received;
 - (b) That the petition be received and a report be submitted to a specific Meeting cycle for consideration;
 - (c) That the petition be considered at a specific time or in conjunction with a specific item;
 - (d) That the petition be dealt with in conjunction with another item on this Agenda or any other Council or Special Committee Agenda; and
 - (e) That the petition be referred to the Chief Executive Officer for consideration and response.

- (10) If a petition, joint letter, memorial or other like application relates to an operational matter, Council must refer it to the Chief Executive Officer or relevant Director for consideration and response.
- (11) No member of the public is permitted to speak to the petition when presented at a Council Meeting. Individuals may request to speak or submit a written statement in relation to the petition if a report on the item is considered by Council at a later Meeting.
- (12) The Chief Executive Officer or delegate may determine that an electronic or online petition will be submitted to a Council Meeting. An online or electronic petition may be submitted to a Council Meeting.
- (13) The online or electronic petition must contain a petition prayer, consisting of the following words: *"We the undersigned hereby petition Bayside City Council...."* The electronic or online petition must include the name, suburb and postcode of each petitioner and must be submitted via Bayside's specific online petition template.
- (14) The number of signatories to an online or electronic petition (must be a minimum of 50 electronic signatories), and will be taken to be the number of signatories at the time the petition is provided to Council for submission to a Council Meeting.
- (15) An online or electronic petition will not be presented to a Council Meeting if it contains content that appears to be false or misleading.

Division 10 – Individual Presentations

59. Individual Presentations to Delegated Committee Meetings, Council and Special Council Meetings

An individual wishing to make a presentation to a designated Meeting of a Delegated Committee or at a Council Meeting or Special Council Meeting may submit a request to speak and/or a written statement to the Chief Executive Officer or their delegate.

60. Time of Request

- (1) A request to speak and/or a written statement must be sent electronically or delivered to/lodged at Council's Corporate Centre before 9:00 am on the business day immediately preceding the designated Delegated Committee or Council Meeting.
- (2) The request to speak and/or written statement must specify the name, address and contact telephone number of the person and the item to which their request and/or written statement relates to.
- (3) Requests to speak and/or written statements received after 9:00am on the business day immediately preceding the designated meeting will not be considered by the Delegated Committee or Council (as the case may be).

61. When a Presentation Can Be Made

A person may only make a presentation to:

- (a) a Council Meeting in relation to an item listed in the Agenda under 'Reports by the Organisation', and even then not if the item is in the nature of a report summarising a decision already made by another body; or if the report relates to a Tender Report relating to the awarding of a contract;
- (b) a Special Council Meeting in relation to an item in the Agenda under 'Reports by the Organisation' and even then, not if the item is in the nature of a report summarising a decision already made by another body; or if the report relates to a Tender Report relating to the awarding of a contract; or
- (c) a Delegated Committee in relation to an item listed on the Agenda for the Meeting of the Delegated Committee, and even then, not if the item is in the nature of a report summarising a decision already made by another body.

62. Limitations Upon Presentations

In respect of items on the Agenda for a Council Meeting, Special Council Meeting, or Delegated Committee Meeting (subject to clause 61 (a), (b) and (c) of Council's meeting procedure:

Speakers

- (1) An individual addressing the Delegated Committee or Council Meeting cannot speak for more than 2 Minutes and no further extension of time can be granted.
 - Council Meetings:

A maximum of 10 registered speakers per item to be accepted. (up to 5 speakers 'for' and up to 5 speakers 'against' the recommendation.
 - Planning and Amenity Delegated Committee Meetings:

A maximum of 10 registered speakers per item to be accepted (up to 7 objectors, and up to 3 supporters).
- (2) Where a group or association wishes to be heard at a Meeting, they must nominate only one authorised spokesperson for the group or association to speak for an issue upon which the group or association may wish to be heard.
- (3) Where an individual has requested that another individual speak on their behalf, the spokesperson must not have spoken or be listed to speak in relation to that item.
- (4) A maximum of 1 member per place of residence may speak to an item (address to be provided at time of registration).
- (5) Where a member of the public has requested to be heard in relation to an item on the Agenda, and they are not present at the time of calling them to the microphone, and subsequently arrives in the gallery after their name has been called or once the debate on the item has commenced, the person previously called will not be afforded the opportunity to speak to the item.
- (6) A Councillor must not ask the speaker to continue the speaking opportunity after the two (2) Minutes has expired. Only questions to the speaker relating to clarification of points raised by the speaker may be asked of the speaker.
- (7) A list of registered speakers to eligible agenda items is provided to Councillors and published via Council's website on the business day immediately preceding the designated meeting.

Written Statements

- (8) An individual may submit a written statement (maximum of four (4) A4 single pages).
- (9) Any statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community may be redacted or not accepted by the Chief executive Officer or their delegate.

- (10) Formal written statements received in relation to an eligible agenda items will be provided to all Councillors and published via Council's website on the business day immediately preceding the designated meeting.
- (11) Written statements will not be read out at the relevant meeting; however, the Chairperson will advise the meeting of the number of statements received to each item and the names of the submitters. The names of the submitters will be published in the Minutes of the meeting.

Meetings held wholly by electronic means

- (12) In consideration of meetings held wholly by electronic means, the Chief Executive Officer, in accordance with sub-Rule 84 (3), must (where practicable) enable individual presentations to include speakers and the written statements. In instances where this is not practicable, individual presentations may be limited to Written Statements only.

63. Questions But No Discussion Permitted to submitters

Following a speaker's presentation, members of the Delegated Committee or Councillors at a Council Meeting or Special Council Meeting or members of Council staff at either Meeting may only ask the speaker questions or seek clarification of issues raised by the speaker in their presentation which may assist in the deliberations prior to the elected body making a decision, but no discussion will be allowed.

64. Individual Presentations Pursuant to Section 223 of the *Local Government Act 1989* (Delegated Committee – Hearing of Submissions)

- (1) Council from time-to-time will establish a Delegated Committee pursuant to Section 223 of the *Local Government Act 1989* to provide an opportunity to hear from community members in a formal setting on key issues.
- (2) A Hearing Committee will be comprised only of Councillors.
- (3) Where an issue affects a large proportion of the Bayside community, all Councillors will be appointed to the Hearing Committee.
- (4) Where an issue affects a ward related matter, a minimum of three Councillors to be appointed to the Hearing Committee, one of which must be the ward councillor.
- (5) (Community members will be provided with reasonable notice of the date and time that they will be invited to address a Hearing Committee.
- (6) Council may resolve that the Hearing Committee Meetings will be held electronically and make provisions for community members to address the committee by a video conferencing tool.
- (7) Council may resolve a Hearing Committee will be livestreamed.

- (8) A summary of proceedings of all Hearing Committee Meetings held will be reported to Council.
- (9) Where a request to be heard has been received in accordance with section 223 of the *Local Government Act 1989*, the speaker must be afforded a reasonable opportunity to speak in support of their submission for up to a maximum period of 10 Minutes, with no further extension of time to be granted. Councillors may through the Chair, question or seek clarification of any submitter in relation to their submission.
- (10) Where a submitter has been heard in accordance with section 223 of the *Local Government Act 1989* at a Delegated Committee established for that purpose, or where there are no submitters at a section 223 hearing, no further opportunity will be afforded to make a presentation on the subject matters when it is considered at the Council Meeting or Special Council Meeting.

65. Relaxation of Requirement

Nothing in this Division prevents:

- (a) the Chief Executive Officer determining which Delegated Committee Meeting will consider the request for the individual to be heard;
- (b) arranging for a deputation or individual to meet with a group of Councillors;
- (c) Council from resolving to hear from a deputation or individual at any time; or
- (d) Council from:
 - i) terminating the appointment of or not appointing any Delegated Committee; or
 - ii) resolving that a Delegated Committee empowered to hear an individual wishing to be heard, to no longer hear from the individuals wishing to be heard.

In which case any reference in clauses 60-64 (inclusive) and sub-clause (1) to a Delegated Committee will be read as a reference to Council.

Division 11 – Voting

66. How Motion Determined

All motions dealing with a substantive matter must be determined by a 'Division'.

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.

(1) The Chair must:

- (a) first ask each Councillor wishing to vote in the affirmative to raise a hand (or such other visible or audible means as the Chair determines) and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of their hands (or such other visible or audible means as the Chair determines). The Chair must then call the name of the Councillor/s in favour of the motion, and the Chief Executive Officer or delegated officer must record, the names of those Councillors voting in the affirmative; and
- (b) then ask each Councillor wishing to vote in the negative to raise a hand (or such other visible or audible means as the Chair determines) and, upon such request being made, each Councillor wishing to vote in the negative must raise one of their hands (or such other visible or audible means as the Chair determines). The Chair must then call the name of the Councillor/s against the motion, and the Chief Executive Officer or delegated officer must record, the names of those Councillors voting in the negative.

Explanatory note:

A procedural motion or question does not require a 'division'. The record will only record the outcome of the motion.

67. Silence

Subject to Rule 70, voting must take place in silence.

68. Recount

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

69. Casting Vote

- (1) In the event of a tied vote, the Chair must exercise a casting vote.
- (2) The Chair may adjourn a meeting to consider how their casting vote will be cast.

Explanatory note:

In accordance with Section 61(6) of the Local Government Act 2020, the Chairperson does not have a casting vote in the election of Mayor or Deputy Mayor as these positions must be elected by an absolute Majority of Councillors. In the event of a tied vote on these circumstances, the matter is to be determined by lot.

70. How Votes are Cast

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

71. No Discussion Once Declared

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

- (1) a Councillor requesting, before the next item of business is considered, that their opposition to a question or procedural motion be recorded in the Minutes or a register maintained for that purpose; or
- (2) foreshadowing a Notice of Rescission where a resolution has just been made, or a positive Motion where a resolution has just been rescinded.

Explanatory note:

For example, Rule 71 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 71 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 71 (2), to discussion about a positive Motion were a resolution has just been rescinded.

Division 12 – Minutes

72. Confirmation of Minutes

- (1) At every Council Meeting the Minutes of the preceding Meeting(s) must be dealt with as follows:
 - (a) a copy of the Minutes must be delivered to each Councillor no later than 48 hours before the Meeting;
 - (b) if no Councillor indicates opposition, the Minutes must be declared to be confirmed;
 - (c) if a Councillor indicates opposition to the Minutes:
 - i) they must specify the item(s) to which they object;
 - ii) the objected item(s) must be considered separately and in the order in which they appear in the Minutes;
 - iii) the Councillor objecting must move accordingly without speaking to the Motion;
 - iv) the Motion must be seconded;
 - v) the Chair must ask:

"Is the Motion opposed?"
 - vi) 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 72 (1) (c)xi);
 - vii) if a Councillor indicates opposition, then the Chair must call on the mover to address the Meeting;
 - viii) after the mover has addressed the Meeting, the seconder may address the Meeting;
 - ix) 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;
 - x) 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
 - xi) 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;

- (d) 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;
- (e) the Minutes must be entered in the minute book and each item in the minute book must be entered consecutively; and
- (f) 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.

73. 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.

74. 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.

75. Form and Availability of Minutes

- (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:
 - (a) the date, place, time and nature of the Meeting;
 - (b) the names of the Councillors in attendance and the names of any Councillors who apologised in advance for their non-attendance;
 - (c) the names of the members of Council staff in attendance;
 - (d) 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;
 - (e) arrivals and departures (including temporary departures) of Councillors during the course of the Meeting;
 - (f) each Motion and amendment moved (including Motions and amendments that lapse for the want of a seconder);

- (g) the vote cast by each Councillor upon a division and any abstention from voting;
 - (h) the vote cast by any Councillor who has requested that their vote be recorded in the Minutes;
 - (i) questions upon notice;
 - (j) the failure of a quorum;
 - (k) any adjournment of the Meeting and the reasons for that adjournment; and
 - (l) the time at which standing orders were suspended and resumed.
- (2) The Chief Executive Officer must ensure that the Minutes of any Council Meeting are:
- (a) published on Council's website; and
 - (b) available for inspection at Council's office during normal business hours.
- (3) Nothing in sub-Rule 75 (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.

76. Recording of Meetings

- (1) The Chief Executive Officer, or their delegate may record the Meetings via webcast camera and audio all proceedings of a Council Meeting, Special Council Meeting or a Delegated Committee Meeting except where the Meeting is closed to the public in accordance with Section 66(2)(a) of the *Local Government Act 2020*.
- (2) Recordings of proceedings will be retained and available to the public for viewing or listening for a period of 12 months from the date of the Meeting.
- (3) Members of the public are to be advised that the Meeting is being recorded or filmed and may be streamed live and as an archive on Council's website. Members of the public are to be advised by appropriate signage that while care is taken through filming to maintain a person's privacy as an attendee in the gallery, they may be recorded on camera and audio.
- (4) Subject to part 1 above, members of the public must not operate photographic, audio or video recording equipment or any other recording device that may disrupt the Meeting proceedings.

Division 13 – Behaviour

77. Display of Placards and Posters

- (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.
- (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.

78. Public Addressing the Meeting

- (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.
- (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.
- (3) A member of the public in attendance at any Meeting of Council must not disrupt the Meeting.

79. 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 78(2).

Explanatory note:

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.

80. 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 18(2) and 18(3) apply.

81. Removal from Chamber

The Chair, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Chapter and whom the Chair has ordered to be removed from the gallery under Rule 81.

Division 14 – Additional Duties of Chair

82. The Chair’s Duties and Discretions

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

- (1) must not accept any Motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community;
- (2) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (3) must ensure silence is preserved in the public galley during any Meeting;
- (4) must call to order any member of the public who approaches the Council or Committee table during the Meeting, unless invited by the Chair to do so; and
- (5) must call to order any person who is disruptive or unruly during any Meeting.

Division 15 – Physical and Remote Attendance

83. Mode of Attendance

- (1) Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:
 - a) wholly in person;
 - b) wholly by electronic means; or
 - c) partially in person and partially by electronic means.
- (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:
 - (a) wholly in person;
 - (b) wholly by electronic means; or
 - (c) partially in person and partially by electronic means.
- (3) If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.
- (4) Any request made under sub-Rule 83 (3) must:
 - a) be in writing;
 - b) be given to the *Chief Executive Officer* no later than 24 hours prior to the commencement of the relevant *Council meeting*; and
 - c) specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in person.

If a Council meeting is to be conducted wholly in-person, it is intended that all Councillors attend the meeting in-person unless circumstances arise that would prevent in-person attendance.

Approval of any request is at the discretion of the Chief Executive Officer in consultation with the Mayor.

- (5) The *Chief Executive Officer* must ensure that any approved request received in accordance with sub-Rule 83 (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*.
- (6) *Council* may approve and must not unreasonably refuse any request.
- (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*.

- (8) Without detracting from anything said in sub-Rule 83 (7), a Councillor who is *attending* a meeting by electronic means must be able to:
- a) hear the proceedings;
 - b) 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;
 - c) be seen by all Councillors, members of Council staff and members of the public who are physically present at the *Council meeting*; and
 - d) be heard when they speak.
- (9) If the conditions of sub-Rule 83 (8) cannot be met by one or more Councillors *attending* a *Council meeting*, whether because of technical difficulties or otherwise:
- a) the *Council meeting* will nonetheless proceed as long as a quorum is present; and
 - b) 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*.
- (10) Nothing in this Rule 83 prevents a Councillor from joining (or re-joining) a *Council meeting* at the time that they achieve compliance with sub-Rule 83 (8) even if the *Council meeting* has already commenced or has continued in their absence.

84. Meetings Conducted Remotely

- (1) The use, as required, of wholly electronic Council and Delegated Committee meetings may be determined:
- a) by resolution of Council
 - b) by letter from the Mayor, or any Councillor, to the Chief Executive Officer, at least 24 hours before the meeting, specifying the reasons that the meeting be held remotely
 - c) as determined by the Chief Executive Officer in the event of receiving written advice from individual Councillors (at least 24 hours before the meeting) to indicate a quorum would not be possible were the meeting to proceed in-person
 - d) in all instances, with consideration given to the level of public interest and means of public participation in the matter/s being considered.

Council and Delegated Committee meetings are to be conducted primarily in-person, except as determined by sub-Rule 84 (1) a), b) or c).

Approval of any request pursuant to sub-Rule 84 (1) b) or c) is at the discretion of the Chief Executive Officer in consultation with the Mayor.

- (2) Special Committee of Council meetings (pursuant to Rule 64) may be conducted wholly by electronic means subject to the satisfaction of sub-Rule 84 (1) d); or may otherwise proceed by electronic means as a result of sub-Rule 84 (1) a), b) or c).
- (3) The Chief Executive Officer must enable (where practicable) individual presentations in accordance with Division 10 of *these rules* for Council, Delegated Committee, or Special Committee of Council meetings held wholly by electronic means.

If a *Council meeting* is conducted wholly or partially by electronic means, the Chief Executive Officer (prior to the meeting) or the *Chair*, with the consent of the meeting, may 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.

Division 16 – Suspension of Standing Orders

85. Suspension of Standing Orders

- (1) To expedite the business of a Meeting, Council may suspend standing orders.

Explanatory note:

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.

- (2) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate Motion would be:

"That standing order be suspended to enable discussion on....."

- (3) No Motion can be accepted by the Chair or lawfully be dealt with during any suspension of standing orders.

- (4) Once the discussion has taken place and before any Motions can be put, the resumption of standing orders will be necessary. An appropriate Motion would be:

"That standing orders be resumed."

Division 17 – Miscellaneous

86. Criticism of Members of Council Staff

- (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 the Chief Executive Officer or any member of Council staff.
- (2) A statement under sub-Rule 86 (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.

87. Procedure Not Provided in this Chapter

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

CHAPTER 3 – MEETING PROCEDURE FOR DELEGATED COMMITTEES

1. Meeting Procedure Generally

If Council establishes a Delegated Committee:

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

2. Meeting Procedure Can Be Varied

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

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

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

3. Adoption Of Recommendation

- 3.1. If a recommendation of a Delegated Committee is adopted by Council, what has been recommended becomes a resolution of Council.

CHAPTER 4 – MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

Explanatory note:

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

Section 65 of the Local Government Act provides: Community Asset Committee

- (1) *A Council may establish a Community Asset Committee and appoint as many members to the Community Asset Committee as the Council considers necessary to enable the Community Asset Committee to achieve the purpose specified in subsection (2).*
- (2) *A Council may only establish a Community Asset Committee for the purpose of managing a community asset in the municipal district.*

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

- (1) *The Chief Executive Officer may by instrument of delegation delegate any power, duty or function of the Council that has been delegated to the Chief Executive Officer by the Council to:*
 - (a) *a member of Council staff; or*
 - (b) *the members of a Community Asset Committee.*

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

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 – MEETING PROCEDURE FOR ADVISORY COMMITTEES

Explanatory note:

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

These committee, usually comprises of community members and Councillors, and may sometimes include representative of community organisations. These committee are essential forums to provide input to the development of Council policy and decision making in their area of focus.

Reporting of these committee to Council is a transparency mechanism.

1. Meeting Procedure Generally

If Council establishes an Advisory Committee:

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

2. Meeting Procedure Can Be Varied

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

- 2.1 Council may; or
- 2.2 the Advisory 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 Advisory Committee, in which case the provision or those provisions will not apply until Council resolves, or the Advisory Committee with the approval of Council resolves, otherwise.

3. Adoption Of Recommendation

- 3.1. If a recommendation of a Advisory Committee is adopted by Council, what has been recommended becomes a resolution of Council.
- 3.2. Minutes of Advisory Committees will be presented to Council for adoption. Recommendations or decisions contained in such Minutes will not become resolutions of Council unless the matter is the subject of a separate resolution of Council.

CHAPTER 6 – MEETING PROCEDURE FOR JOINT COUNCIL MEETINGS

Explanatory note:

Local and regional collaboration provides benefits to the Bayside community through collection procurement opportunities, increased advocacy and alignment for major projects. While on some matters that are worked on in partnership it is possible for the participating Councils to hold their own decisions and determination, in some circumstances, it may be beneficial to hold Joint Council Meetings as are provided for the Act.

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

Section 62 Local Government Act 2020 – Joint Meetings of Council

- (1) *Two or more Councils may determine to hold a joint Meeting.*
 - (2) *A joint Meeting is a Council Meeting of each Council for the purposes of this Act and the provisions of this Act, except section 61(3),(4) and (5)(d), apply accordingly.*
 - (3) *A joint Meeting is to be constituted by the Councillors of the Council holding the joint Meeting consisting of-*
 - (a) *The total number of Councillors determined by the Councils holding the joint Meeting; and*
 - (b) *At least 3 Councillors from each of the Councils holding the joint Meeting.*
 - (4) *A quorum of a joint Meeting is constituted by the number of Councillors that is equal to at least a majority of the Councillors from each of the Councils holding the joint Meeting.*
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CHAPTER 7 – DISCLOSURE OF CONFLICT OF INTEREST

1. Introduction

The following Rules in this Chapter are pursuant to the *Local Government Act 2020*.

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 and in Chapter 8 (whether such a Meeting is known as an 'Advisory Committee' or '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 in attendance must disclose that conflict of interest by explaining the nature of the conflict of interest to those in attendance at the Council Meeting immediately before the matter is considered and indicating whether it is a general conflict of interest or a material conflict of interest; or
- 3.2 intend to attend must disclose that conflict of interest by providing to the Chief Executive Officer before the Council Meeting commences a written notice:
 - 3.2.1 advising of the conflict of interest;
 - 3.2.2 explaining the nature of the conflict of interest; and
 - 3.2.3 detailing, if the nature of the conflict of interest involves a Councillor's relationship with or a gift from another person, the:
 - (a) name of the other person;
 - (b) nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - (c) nature of that other person's interest in the matter,

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

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 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

4.2 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:

4.2.1 advising of the conflict of interest;

4.2.2 explaining the nature of the conflict of interest and indicating whether the conflict of interest 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 disposed of.

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

A Councillor who has a conflict of interest in a matter being considered at a Community Asset Committee Meeting at which 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 intends 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
 - 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 disposed of.

6. Disclosure at a Meeting Conducted Under the Auspices of Council (Advisory Committees)

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 in attendance must:

- 6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Meeting immediately before the matter is considered;
- 6.2 absent 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 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:

7.1.1 Council Meeting;

7.1.2 Delegated Committee Meeting; or

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 the conflict of interest 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 the conflict of interest 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 the conflict of interest 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 8 – MISCELLANEOUS

1. Informal Meetings of Councillors

Introduction: This Chapter describes the nature and procedure for some informal Meetings of Councillors.

Councillors meet on a number of occasions monthly at ‘Councillor Briefings and Strategic Issues Discussions’. This Chapter provides for these informal Meetings, and explains why and how they are held.

Discussion arrangements

As part of Council’s governance arrangements, Councillors may meet regularly at an informal gathering of Councillors known as a ‘Councillor Briefing or Strategic Issues Discussion’ or such other names as Council from time to time adopts.

- 1.1 The purpose of such gatherings is for the organisation to provide advice to Councillors on items of a complex nature or of significant community impact. The briefing enables open discussion between the organisation and Councillors and assists both Council staff and Councillors develop better understanding of the matter for consideration. The Strategic Issues Discussion is similar to a briefing but also provides greater opportunity to develop ideas and discuss options on a range of matters.
- 1.2 The gatherings are not a decision-making forum.
- 1.3 The gatherings are not open to the public and will generally be held in the Corporate Centre or in such other locations as Council nominates from time to time.
- 1.4 The operating Meeting protocols and arrangements in relation to these gatherings will be reviewed from time-to-time and be subject to resolution of Council.

Record of matters discussed

If there is a gather or meeting of Councillors that:

- 1.5 is scheduled or planned for the purpose of discussing the business of Council or briefing Councillors;
- 1.6 is attended by at least one member of Council staff; and
- 1.7 is not a Council Meeting, Delegated Committee Meeting or Community Asset Committee Meeting or Advisory Committee meeting

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

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

2. Confidential Information

- 2.1 If the Chief Executive Officer is of the opinion that information relating to a Meeting is confidential information within the meaning of the Act, the Chief Executive Officer may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.2 Information which has been designated by the Chief Executive Officer as confidential information within the meaning of the Act, and in respect of which advice has been given to Councillors and/or members of Council staff in writing accordingly, will be presumed to be confidential information.
- 2.3 In designating information as confidential information under sub-Rule 2.1, the Chief Executive Officer must stipulate the relevant clause/s pursuant to the definition of 'confidential information' contained in section 3(1) of the Act.

3. Review of these Rules

- 3.1 These rules will be reviewed by Council:
 - (a) Within 12 months of a general election; and
 - (b) At such other times as Council, in its absolute discretion, determines.
- 3.2 A delay in reviewing, or failure to review, these Rules in accordance with this Rule will not affect the validity of these Rules.

4. COVID-19 pandemic and other emergencies of a similar nature

- 4.1 Council may, by resolution:
 - (a) suspend or limit the operation of part or whole of; and/or
 - (b) make alternative arrangements to give effect to

Public Participation at Council Meetings and Public Question Time at Council Meetings, provided that such suspension or limitation is necessary to:

 - (i) protect Councillors, employees or the public consistent with state or federal government guidelines or public health considerations; or
 - (ii) otherwise to comply with relevant laws, regulations or instruction from relevant authorities in the event of an emergency.
- 4.2 If Council makes a resolution described in Sub-Rule 4.1:
 - (a) the circumstances justifying the resolution must be clearly detailed in the Minutes of the Meeting; and
 - (b) the suspension, limitations or alternative arrangement must be reviewed within six months.

CHAPTER 9 – USE OF COUNCIL’S COMMON SEAL

Explanatory note:

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

As many of the powers, duties and functions of Council are delegated to the Chief Executive Officer and other members of Council staff, the Common Seal of Council is only use on legal documents such as local laws, contracts, agreements, transfer of land, significant letters, and other documents where required by legislation or where

- (1) The Chief Executive Officer must ensure the security of the Common Seal at all times.
- (2) The affixing of the Common Seal to any document must be attested to by not less than two persons, comprising both:
 - (a) the Mayor and Chief Executive Officer; or
 - (b) in the absence of the Mayor, by one Councillor and the Chief Executive Officer or a member of Council staff delegated this function by Council.
- (3) Where Council authorises the Common Seal to be affixed to any document, the Chief Executive Officer must record the description of the document sealed is entered into the seal register.
- (4) Where the Common Seal is affixed to a document on the authority of Council, the sealing clause must contain the following words:

The Common Seal of **BAYSIDE CITY COUNCIL**
was affixed this (no. of day).....(month)
.....(year) in the presence of:

.....Mayor/Councillor

.....Chief Executive Officer

CHAPTER 10 – COUNCIL RECORDS

10.1 Records of Meetings held under the auspices of Council

- (1) A record of the matters discussed at Meetings organised or hosted by Council that involve Councillors and Council staff will be kept.
- (2) Records kept in accordance with sub-Rule 10.1 (1) will include:
 - (a) the attendees at the Meeting
 - (b) the title of matters discussed
 - (c) any conflicts of interest disclosed and whether the person with the conflict of interest left the Meeting.
- (3) Where Minutes are kept of a Meeting and made available to the community an additional record is not required to be kept.

Section 131 of the Local Government Act 2020

Provides that in respect of a conflict of interest of a matter at a Meeting conducted under the auspices of the Council that is not a Meeting specified in section 130(1)(a), (b) or (c).

- (2) *A Councillor who has a conflict of interest in respect of a matter must:*
 - (a) *Disclose the conflict of interest in the manner required by the Council's Governance Rules; and*
 - (b) *Comply with the procedures specified in the Council's Governance Rules for the purposes of this section.*
- (3) *If a Councillor fails to comply with subsection (2), an application may be made under section 154 to a Councillor Conduct Panel alleging serious misconduct.*

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

10.2 Councillor attendance records

- (1) Council will maintain a register of Councillor attendance at Council Meetings, Delegated Committee Meetings and Meetings arranged to brief Councillors.
- (2) The register of Attendance kept in accordance with sub-Rule 10.2 (1) will be published on Council's website.

CHAPTER 11 – ELECTION PERIODS

Explanatory note:

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

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

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

11.1 Election Periods Generally

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

Section 69 of the Local Government Act 2020 provides:

- (1) *A Council must include an election period policy in its Governance Rules.*
- (2) *An election period policy must prohibit any Council decisions 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 relates and charges in the proceeding financial year; or*
 - (c) *The Council considers could be reasonably deferred until the next Council is in place; or*
 - (d) *The Council considers should not be made during an election period.*
- (3) *An election period policy must prohibit any Council decision during the election period for a general election or a by-election that would enable the use of Council resources in a way that is intended to influence, or is likely to influence, voting at the election.*