



## Special Meeting of the Council

# AGENDA

<b>Date:</b>	<b>Tuesday, 21 July 2020</b>
<b>Time:</b>	<b>6:30pm</b>
<b>Location:</b>	<b>held via Zoom video conferencing in accordance with section 394 of the Local Government Act 2020</b>

**This meeting is convened to transact the business listed below.**

**Andrew Day**  
**Chief Executive Officer**

*This meeting will be livestreamed. Members of the public who address Council will be heard on the live audio stream, and audio of them speaking will be recorded. All reasonable efforts will be made to avoid capturing live or recorded video footage of public attendees however there might be incidental capture.*

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### 5.1 Draft Governance Rules

File Number: IN20/442  
Responsible Director: Chief Executive Officer  
Attachments: 1 Draft Governance Rules [↓](#)

#### EXECUTIVE SUMMARY

*This report presents to Council a set of draft Governance Rules (the Rules) for consideration. Council must develop, adopt and keep in force Governance Rules by 1 September 2020 to comply with section 60 of the Local Government Act 2020. Council must also undertake consultation with the community before formally adopting the Rules. This report provides an overview of the draft Rules and the timelines for implementation.*

#### 1. RECOMMENDATION

**That Council:**

- A. endorse the Draft Governance Rules for public exhibition from 22 July to 14 August 2020 inclusive; and**
- B. note a report will be presented to the 25 August 2020 Council meeting to consider feedback received during community consultation and formal endorsement of the Governance Rules.**

#### 2. BACKGROUND

- 2.1 Following an extensive consultation process with the local government sector and broader community, new legislation regulating local government came into effect this year. The Local Government Act 2020 (the Act) received royal assent on 24 March 2020 and will be progressively implemented over the coming 18 months.
- 2.2 The Act moves away from the prescription contained in the Local Government Act 1989 to a principles based Act providing Councils with the flexibility to implement policies and practices that comply with the principles but suit their individual needs.
- 2.3 The Act is underpinned by the overarching governance principles in section 9 which states:
  - (1) *A Council must in the performance of its role give effect to the overarching governance principles.*
  - (2) *The following are the overarching governance principles—*
    - (a) *Council decisions are to be made and actions taken in accordance with the relevant law;*
    - (b) *priority is to be given to achieving the best outcomes for the municipal community, including future generations;*

- (c) *the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;*
  - (d) *the municipal community is to be engaged in strategic planning and strategic decision making;*
  - (e) *innovation and continuous improvement is to be pursued;*
  - (f) *collaboration with other Councils and Governments and statutory bodies is to be sought;*
  - (g) *the ongoing financial viability of the Council is to be ensured;*
  - (h) *regional, state and national plans and policies are to be taken into account in strategic planning and decision making;*
  - (i) *the transparency of Council decisions, actions and information is to be ensured.*
- (3) *In giving effect to the overarching governance principles, a Council must take into account the following supporting principles—*
- (a) *the community engagement principles;*
  - (b) *the public transparency principles;*
  - (c) *the strategic planning principles;*
  - (d) *the financial management principles;*
  - (e) *the service performance principles.*

### 3. DISCUSSION / ISSUE

- 3.1 To support the governance principle of transparency in Council decision making, Council is required under section 60 of the Act to develop and adopt Governance Rules by 1 September 2020.
- 3.2 The Act states that the Rules must provide for the following -
- (a) *the conduct of Council meetings;*
  - (b) *the conduct of meetings of delegated committees;*
  - (c) *the form and availability of meeting records;*
  - (d) *the election of the Mayor and the Deputy Mayor;*
  - (da) *the appointment of an Acting Mayor;*
  - (e) *an election period policy in accordance with section 69;*
  - (f) *the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under section 130;*
  - (g) *the procedure for the disclosure of a conflict of interest by a Councillor under section 131;*
  - (h) *the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of section 126(1);*
  - (i) *any other matters prescribed by the regulations.*

- 3.3 Further, the 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*
- 3.4 The draft Governance Rules shown at Attachment 1 have been prepared based on the translation of Manningham's current Meeting Procedure Local Law to the draft Rules in so far as they are not inconsistent with the requirements of the new Act, guidance prepared by Local Government Victoria and template Rules prepared by Council's lawyers.
- 3.5 The draft Rules are divided into an introduction and seven Chapters and each Chapter has its own rules.

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

- 3.6 Whilst the document is structured differently, it includes the majority of Council's current meeting procedure unless changes in the legislation require us to update the Rules. Changes include:
- 3.6.1 Inclusion of a decision making framework in Chapter 1 that gives effect to section 60(2) of the Act.
- 3.6.2 Key changes regarding Council meeting procedures related to the:
- election of Mayor and Deputy Mayor;
  - appointment of and acting Mayor;
  - inability to achieve or maintain a quorum do to disclosure of conflict of interest;
  - notice of rescission or alteration – clarification as to when a resolution has been acted on; and
  - inclusion of provisions to enable meetings to be conducted remotely when legally able to do so.
- 3.6.3 In the event that Council establishes a Delegated or Community Asset, Chapters 3 and 4 provide for meeting procedures in accordance with the Act.

- 3.6.4 Chapter 5 steps out the process for disclosing conflicts of interest at Council meetings, meetings conducted under the auspices of Council such as briefing sessions, Delegated Committee Meetings and Community Asset Committee meetings. These sections will come into effect on 24 October 2020.
- 3.6.5 Chapter 6 – Miscellaneous includes provisions relating to informal meetings of Council and Chief Executive Officer's designation of confidential information.
- 3.6.6 The Rules are also required to include Council's Election Period Policy. Minor amendments have been made to the policy to ensure compliance with the Act.
- 3.7 Provisions relating to the use of the common seal have not been included in the Rules. The Act required that a local law be made to regulate the use of the common seal. The common seal provisions in Council's existing Meeting Procedure Local Law will remain operative. A separate process will be undertaken to make a new local law regarding the use of the common seal and to sunset the Meeting Procedure Local Law.

#### **4. COUNCIL PLAN / STRATEGY**

- 4.1 A contemporary governance framework that supports transparent decision making is essential to ensuring Council's business is conducted efficiently, transparently and with integrity. Further, it provides an opportunity for Council to engage with the community and those people directly affected by Council's decision making. This directly supports the themes of '*Healthy Community*' and '*Well Governed Council*'.

#### **5. IMPLEMENTATION**

##### **5.1 Finance / Resource Implications**

Costs associated with the development and implementation of the draft Governance Rules will be met within existing resources.

##### **5.2 Communication and Engagement**

Council must ensure a process of community engagement is followed in developing or amending its Governance Rules. The timeframes for engagement and endorsement under the Act are tight to meet the 1 September deadline. As a result, it is acknowledged that in depth engagement is not possible.

It should be noted that there is no restriction on Council reviewing its Governance Rules at a later stage to involve more meaningful engagement.

5.3 Timelines

Timelines for engagement and implementation are detailed below:

21 July 2020	Council decision regarding placing the Governance Rules on Public Exhibition
22 July – 14 August 2020	Submission Period
25 August 2020	Council considers submissions and adoption of Governance Rules
1 September 2020	Commencement of Governance Rules

**6. DECLARATIONS OF CONFLICT OF INTEREST**

No Officers involved in the preparation of this report have any direct or indirect conflict of interest in this matter.



# Governance Rules

Manningham City Council

Draft – July 2020



Interpreter service

**9840 9355**

普通话 | 廣東話 | Ελληνικά

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MANNINGHAM

## Introduction

### 1. Nature of Rules

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

### 2. Date of Commencement

These Governance Rules commence on 1 September 2020.

### 3. Contents

These Governance Rules are divided into the following Chapters:

Chapter	Name
Chapter 1	<a href="#">Governance Framework</a>
Chapter 2	<a href="#">Meeting Procedure for Council Meetings</a>
Chapter 3	<a href="#">Meeting Procedure for Delegated Committees</a>
Chapter 4	<a href="#">Meeting Procedure for Community Asset Committees</a>
Chapter 5	<a href="#">Disclosure of Conflicts Of Interest</a>
Chapter 6	<a href="#">Miscellaneous</a>
Chapter 7	<a href="#">Election Period Policy</a>

### 4. Definitions

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

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

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

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

*Council* means Manningham City Council.

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

*Councillor* means an elected representative of *Council*

*Director* means a Level 2 Senior Officer of *Council*

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

*Deputy Mayor* means a Councillor elected by the Council to the position of *Deputy Mayor*.

*Mayor* means the Mayor of *Council*.

*Officer/Staff* means an employee of *Council*

*these Rules* means these Governance Rules.

# GOVERNANCE FRAMEWORK

## Chapter 1

## 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 Councillor Code of Conduct

### 2. Decision Making

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

# MEETING PROCEDURE FOR COUNCIL MEETINGS

## Chapter 2

## Chapter 2 – Meeting Procedure for Council Meetings

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**Part A – Introduction****1. Title**

This Chapter will be known as the "Council Meeting Procedures".

**2. Purpose of this Chapter**

The purpose of this Chapter is to:

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

**3. Definitions and Notes**

3.1 In this Chapter:

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

"*amendment*" means a proposal to alter a motion which is then before the meeting or an alteration or proposed alteration to the terms of the motion, designed to improve the motion without contradicting it.

"*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*;

"*minutes*" 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 or alteration*" means a *notice of motion* to rescind or alter a resolution made by *Council*; and

"*temporary Chair*" means a Councillor elected by *Council* to temporarily chair a meeting or part of a meeting at which the Mayor is not present.

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

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



## Part B – Election of Mayor

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

### 4. Election of the *Mayor*

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

### 5. Method of Voting

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

### 6. Nominations for Position of *Mayor*

- 6.1 The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- 6.2 Any nominations for the office of *Mayor* must be:
  - 6.2.1 seconded by another Councillor;
  - 6.2.2 with the consent of the nominee;
  - 6.2.3 if the nominee is not present, written notification of consent is required;
- 6.3 A candidate cannot withdraw their candidacy once nominations are declared by the *Chief Executive Officer*.
- 6.4 Each candidate has the right to address the Council on their candidature. This right is exercised at the discretion of each candidate. The *Chief Executive Officer* shall ask each candidate whether they would like to address the Council.
- 6.5 A candidate who has declined the invitation to address the Council cannot subsequently request to do so.
- 6.6 Where more than one candidate indicates a desire to address Council, the order of address by each candidate will be determined by lot. The *Chief Executive Officer* shall have conduct over the lot. In drawing the lot the candidate whose name is drawn first is the first speaker, the second drawn is the second speaker and so on until an order is determined for all participating candidates.
- 6.7 Each candidate addressing council has up to three minutes to make their address. No extension of time is permitted. During their address a candidate must not comment on any other candidate.

### 7. Election Process for Position of *Mayor*

- 7.1 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
  - 7.1.1 if there is only one nomination (which must be seconded), the candidate nominated must be declared elected;
  - 7.1.2 if there is more than one nomination (each of which must be seconded), the Councillors present at the meeting must vote for one of the candidates;
  - 7.1.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;

- 7.1.4 in the event that no candidate receives an absolute majority of the votes, and it is not resolved to conduct a new election at a later date and time, the candidate with the fewest number of votes must be declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- 7.1.5 if one of the remaining candidates receives an absolute majority of the votes, that candidate shall be declared elected;
- 7.1.6 If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
- 7.1.7 In the event of three or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the result will be determined by lot. In the drawing of the lot, the candidate whose name is first drawn is deemed to be the defeated candidate;
- 7.1.8 Where there are two candidates remaining and the votes that are cast are equally divided, the result of the election must be determined by lot. In the drawing of the lot, the candidate whose name is first drawn must be declared elected;
- 7.1.9 The *Chief Executive Officer* shall have the conduct of the lot.
- 7.1.10 After the election of the *Mayor* is determined, the *Mayor* shall chair the meeting.

## 8. Election of Deputy Mayor and Chairs of Delegated Committees

Any election for:

8.1 any office of Deputy Mayor; or

8.2 Chair of a *Delegated Committee*

will be regulated by Rules 4-7 (inclusive) of this Chapter, as if the reference to the:

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

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

## 9. Appointment of Acting Mayor

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

9.1 resolving that a specified Councillor be so appointed; or

9.2 following the procedure set out in Rules 6 and 7 (inclusive) of this Chapter,

at its discretion.

## Part C – Meetings Procedure

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

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

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

Subject to Rule 12, *Council* must from time to time fix the date, time and place of all *Council meetings*.

#### 11. Alteration of Meeting Dates

11.1 *Council*, or in cases of necessity or urgency, the *Mayor* in consultation with the *Chief Executive Officer*, may change the date, time and place of any *Council meeting*.

11.2 The *Chief Executive Officer* must provide reasonable notice of the change to *Councillors* and the public unless extraordinary circumstances arise.

#### 12. Meetings Not Fixed by Council

12.1 The *Mayor* or at least 3 *Councillors* may by a *written notice* to the *Chief Executive Officer* call a *Council meeting*.

12.2 The notice must specify the date and time of the *Council meeting* and the business to be transacted.

12.3 The *Chief Executive Officer* must convene the *Council meeting* as specified in the notice.

12.4 Unless all *Councillors* are present and unanimously agree to deal with any other matter, only the business specified in the *written notice* can be transacted at the *Council meeting*.

#### 13. Notice of Meeting

13.1 The *Chief Executive Officer* must ensure the agenda for a *Council meeting* is delivered to every *Councillor* not less than 5 calendar days before the time fixed for the holding of the meeting unless extraordinary circumstances arise.

13.2 Notwithstanding sub-Rule 13.1, an agenda shall not be delivered to a *Councillor* who has been granted leave of absence unless the *Councillor* has, in writing, requested the *Chief Executive Officer* to continue to provide agendas for meetings held during the period of leave.

13.3 Subject to any resolution of *Council* the *Chief Executive Officer*, will determine the method of delivery to be used under sub-Rule 13.1.

13.4 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:

13.4.1 for *meetings* which it has fixed by preparing a schedule of meetings annually and arranging publication of such schedule in a newspaper generally circulating in the *municipal district* prior to the first *Council meeting* of the calendar year; and

- 13.4.2 for any meeting by giving notice on its website and:
- (a) in each of its Customer Service Centres; and/or
  - (b) in at least one newspaper generally circulating in the *municipal district* unless extraordinary circumstances arise that would preclude *Council* from complying with this sub-Rule.

## Division 2 – Quorums

### 14. Quorum at a Council Meeting

- 14.1 A quorum at a *Council meeting* must be at least a majority of the Councillors of the *Council*.
- 14.2 No business shall be conducted at any *Council meeting* unless a quorum is present.
- 14.3 The Chair must commence the *Council meeting* as soon as a quorum is achieved after the specified starting time for the meeting.

### 15. Inability to Obtain a Quorum

- 15.1 If a quorum cannot be obtained within 30 minutes of the scheduled starting time of any meeting or adjournment, those Councillors present, or if there are no Councillors present, the *Chief Executive Officer*, or in the absence of the *Chief Executive Officer*, an authorised officer, may adjourn the meeting for a period not exceeding seven (7) days from the date of the adjournment.
- 15.2 If a *Council meeting* to which sub-Rule 15.1 applies is not adjourned, the meeting will be deemed to have lapsed;
- 15.3 Where a *Council meeting* lapses in accordance with sub-Rule 15.2 the business of the meeting shall be considered for inclusion on an agenda for a future *Council meeting*.

### 16. Inability to Maintain a Quorum

- 16.1 If during any *Council meeting*, a quorum cannot be maintained then Rule 15 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.
- 16.2 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 or Maintain a Quorum due to Disclosure of Conflict of Interest

- 17.1 If during any *Council meeting*, a quorum cannot be achieved or maintained because of the number of Councillors who have a conflict of interest in a decision in regard to a matter, the Council must consider whether the decision can be made by dealing with the matter in an alternative manner as defined in section 67(3) the Act.
- 17.2 If Council is unable to use an alternative manner to resolve the matter, Council must decide to establish a delegated committee to make the decision in regard to the matter pursuant to section 67(4) of the Act.

**18. Adjourned Meetings**

- 18.1 Once the meeting is commenced, *Council* may from time to time, by resolution, adjourn the meeting, which is in addition to the power of the Chair to adjourn a meeting under sub-Rule 65.
- 18.2 No discussion is allowed on any motion for adjournment of the meeting, but if on being put the motion is lost, the subject then under consideration or the next on the agenda or any other that may be allowed precedence must be resolved on before any subsequent motion for adjournment is made.
- 18.3 Except where any *Council meeting* is adjourned to a subsequent hour on the same day, notice of the adjourned Meeting and the time to which the Meeting has been adjourned must be given by the *Chief Executive Officer* to every Councillor not present at the time of adjournment, as soon as is practicable.
- 18.4 Despite sub-Rule 18.3, this requirement does not apply in respect of any Councillor who has been granted leave of absence and who has not requested the *Chief Executive Officer* in writing to continue to give notice of meetings to be held during the period of leave of absence.

**19. Time limits for Meetings**

- 19.1 A *Council meeting* must not continue after 10:30pm unless a majority of Councillors present vote in favour of it continuing.
- 19.2 In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair*.

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

- 20.1 The *Chief Executive Officer* may, in consultation with the *Mayor*, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.

**Division 3 – Business of Meetings****21. Meetings Open to the Public**

- 21.1 All Meetings are to be open to members of the public unless Council resolves to close the Meeting pursuant to section 66 of the *Local Government Act 2020*.
- 21.2 The *Chief Executive Officer* may close the doors to the Council Chamber when in open session for reasons of comfort and practicality provided that access is available at all times.

**22. Closed Meetings**

- 22.1 Council may resolve to close a Meeting to the public in the circumstances specified in section 66(2) of the *Local Government Act 2020*.
- 22.2 The *Governance Rules* continue to apply after Council has closed the Meeting to members of the public.
- 22.3 Upon conclusion of a matter considered in a Meeting closed to members of the public, *Council* shall resolve to reopen the Meeting.
- 22.4 The minutes of Meetings closed to members of the public will be available for inspection by Councillors and will be confidentially tabled at the Meeting at which they are to be confirmed.

**23. Apologies and Requests for Leave of Absence**

- 23.1 A Councillor who is intending to be absent from a *Council meeting* may notify the *Chief Executive Officer* in advance of the meeting. Any apology for non-attendance will be submitted at the Meeting by the *Chief Executive Officer* and an apology will be recorded in the minutes of the Meeting.
- 23.2 A Councillor may apply for leave of absence from *Council* by submitting a written request to the *Chief Executive Officer* in advance of the period of leave being sought. The *Chief Executive Officer* will place the request before the next *Council meeting*. *Council* will resolve on whether or not to grant leave of absence. *Council* cannot unreasonably refuse to grant leave of absence.

**24. Agenda and the Order of Business**

- 24.1 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.
- 24.2 The order of business for *Council meetings* will generally be as follows –
- (a) opening prayer and statements of acknowledgement;
  - (b) apologies and requests for leave of absence;
  - (c) prior notification of disclosures of interest and conflict of interest;
  - (d) confirmation of minutes;
  - (e) presentations;
  - (f) petitions;
  - (g) admission of urgent business;
  - (h) public question time;
  - (i) officer reports – town planning matters;
  - (j) officer reports – other matters;
  - (k) rescission or alteration motions
  - (l) notices of motion;
  - (m) urgent business;
  - (n) councillor question time; and
  - (o) confidential business (to be considered in camera).

**25. 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*.

**26. Urgent Business**

- 26.1 Council may resolve, by not less than a two-thirds majority of those present at an Ordinary Meeting of Council, to admit (without the required notice) an item considered to be urgent business under sub-Rule 24.2(m).
- 26.2 An item may be classified as urgent business if it:
- (a) relates to a matter which has arisen since the distribution of the agenda; or
  - (b) involves a matter of urgent community concern; or
  - (c) cannot be safely or conveniently deferred until the next *Council meeting*.



- 26.3 Notwithstanding anything to the contrary in this Law, a Councillor may not propose an item of urgent business if the matter relates to business which:
- (a) substantially affects the levels of *Council* service; or
  - (b) commits *Council* to expenditure not included in the adopted budget; or
  - (c) establishes or amends a Council policy; or
  - (d) commits *Council* to any contractual arrangement; or
  - (e) requires, pursuant to other *Council* policy, the giving of prior notice.

#### Division 4 – Conduct of Debate

##### 27. Addressing the Meeting

- 27.1 Councillors and Officers shall, at all times, stand when speaking, unless precluded from doing so.
- 27.2 Councillors and Officers, when speaking, shall designate each other by their respective titles of Mayor, Councillor or Officer as the case may be.
- 27.3 A Councillor when speaking shall not be interrupted unless a point of order is called.

##### 28. Points of Order

- 28.1 A point of order must be taken by stating the matter complained of and the reason constituting the point of order.
- 28.2 The Chair may raise a point of order without it having been made by a Councillor.
- 28.3 When called to order, a Councillor must remain silent until the point of order is decided unless they are requested by the Chair to provide an explanation.
- 28.4 The Chair may adjourn the meeting to consider a point of order but must otherwise rule upon it as soon as it is taken.
- 28.5 The Chair must when ruling on a point of order give reasons for the ruling.
- 28.6 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".
- 28.7 When a motion in accordance with this Rule is moved and seconded, the *Chair* must leave the Chair and the Deputy Mayor (or if the Deputy Mayor is not present, a temporary *Chair* elected by the meeting) must take his or her place.
- 28.8 The Deputy Mayor or temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.
- 28.9 The Deputy Mayor or temporary *Chair* must put the motion in the following form:
- "That the *Chair's* ruling be dissented from."
- 28.10 If the vote is in the negative, the *Chair* resumes the Chair and the meeting proceeds.

- 28.11 If the vote is in the affirmative, the *Chair* must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- 28.12 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.
- 28.13 A point of order may be taken on the grounds that the matter is –
- (a) contrary to this Local Law;
  - (b) defamatory;
  - (c) irrelevant;
  - (d) outside Council's power;
  - (e) improper; or
  - (f) frivolous or vexatious

**29. Contradiction or Opinion**

- 29.1 A point of order may not be raised to express a mere difference of opinion or to contradict a speaker.

**30. Personal Reflection**

- 30.1 All imputations of improper motives and all personal reflections on Councillors and Officers and disobedience of the ruling of the Chair on any matter shall be deemed disorderly.

**31. Disorderly or Offensive Behaviour**

- 31.1 If a Councillor uses an expression or makes any imputation or reflection which, in the opinion of the Chair, is disorderly or capable of being applied offensively to any other Councillor or Officer, the Councillor shall be required by the Chair to withdraw the expression, and make a satisfactory apology to *Council*.
- 31.2 If a Councillor uses offensive or disorderly language or otherwise behaves in a manner which in the opinion of the Chair is offensive, disorderly or disturbing to the debate or proceedings of *Council*, the Councillor shall be required by the Chair to withdraw the expression and to apologise for such conduct.
- 31.3 If, after having been twice called to order or to withdraw an expression and to apologise for such conduct, the Councillor fails or refuses to do so or whenever any Councillor fails or refuses to obey the ruling or order of the Chair on any matter, the Chair may refuse to hear the Councillor further upon the matter then under discussion and call upon the next speaker, or adjourn the sitting of Council.

**Division 5 – Rules on Speaking**

**32. Order of Speaking**

- 32.1 If two or more Councillors rise to speak at the same time, the Chair shall decide the order of speaking.

**33. Chair May Speak**

- 33.1 The Chair may address the Meeting upon any matter under discussion.



**34. Limitations on Speaking**

- 34.1 Subject to sub-Rule 34.2, a Councillor may speak once on the motion except for the mover of a motion who can speak once to that motion, once to each amendment and can exercise a right of reply on that motion.
- 34.2 The mover of a motion –
- (a) has a right of reply on the motion where an amendment to the motion has been carried;
  - (b) has the right of reply where the mover has, in accordance with sub-Rule 44.12, changed the wording of a motion provided that no amendment has been carried;
  - (c) has no right of reply on the motion where there has not been a speaker against the motion;
  - (d) can only exercise a right of reply immediately prior to the motion being put; and
  - (e) has no right of reply in relation to any amendment prior to such amendment being put.
- 34.3 The mover of an amendment can speak once to the motion and once to their own or any other amendment.
- 34.4 The mover of an amendment has no right of reply.
- 34.5 No Councillor may speak longer than the time set out below, unless granted an extension by the Meeting:
- (a) five minutes, if the Councillor is the mover of a motion;
  - (b) three minutes, for any other Councillor speaking to a motion or amendment; and
  - (c) two minutes, for the mover of a motion exercising a right of reply.
- 34.6 A motion for an extension of time once carried, shall allow a Councillor a further two minutes to speak and no further extension shall be permitted.

**35. Personal Explanation**

- 35.1 A Councillor or Officer may, at a Meeting at a time permitted by the Chair, make a personal explanation for a period not exceeding two minutes on any statement made by a Councillor or Officer at that Meeting reflecting on that Councillor or Officer.
- 35.2 A personal explanation shall not be debated.

**36. Right to Ask Questions**

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

**Division 6 – Standing Orders****37. Enforcement of Standing Orders**

- 37.1 A Councillor may require compliance with the provisions of these *Rules* by the Meeting by directing the attention of the Chair to a non-compliance.

**38. Suspension of Standing Orders**

- 38.1 The provisions of these Rules may be suspended for any particular purpose, by resolution of the Council, with the exception of :-
- (a) quorum of Council;
  - (b) election of Mayor;
  - (c) motions to rescind resolutions;
  - (d) suspension of Standing Orders;
  - (e) conflicts of interest;
  - (f) procedural motions;
  - (g) urgent business; and
  - (h) confidential information.
- 38.2 The suspension of such provisions (standing orders) should be used to enable full discussion of an issue without the constraints of formal meeting procedure.
- 38.3 Suspension of standing orders must not be used purely to dispense with the processes and protocol of the government of the Council.
- 38.4 Once the discussion has taken place and before any motions can be put, standing orders must be resumed.
- 38.5 No motion may be accepted by the Chairperson or be lawfully dealt with during any suspension of standing orders.

**Division 7 – Motions, Amendments and Voting****39. Motions and Amendments**

- 39.1 A motion or amendment:
- (a) must relate to the powers or functions of Council;
  - (b) be clearly expressed and unambiguous;
  - (c) except in the case of urgent business, must be relevant to an item of business on the agenda; and
  - (d) must not be defamatory or objectionable in language or nature.
- 39.2 The Chairperson may refuse to accept any motion or amendment which contravenes this or any other clause.

**40. Motions in Writing**

- 40.1 Any motions should preferably be in writing and received in advance of the meeting.

- 40.2 A Councillor should seek advice from the Chief Executive Officer, or their delegate, on any legal implications of a proposed motion.
- 40.3 Where motions are raised and considered during the meeting without having been provided in writing and in advance of the meeting, the Chair should seek the advice of the Chief Executive Officer regarding any legal or other implications of the proposed motion.
- 40.4 The Chair may adjourn the meeting while the motion is being written or may request Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

**41. Clarifying a Motion**

- 41.1 Before any matter is put to the vote, a Councillor may request that the question, motion or amendment be read again.
- 41.2 The Chair may request the person taking the minutes of the meeting to read the motion or amendment to the meeting before the motion is put.

**42. Separation of Motions**

- 42.1 Where a motion contains more than one (1) part, a Councillor may request the Chair to put the motion to the vote in separate parts.
- 42.2 The Chair may decide to put any motion to the vote in separate parts.

**43. Debate Must be Relevant to the Motion**

- 43.1 Debate must always be relevant to the question before the Chair and if not, the Chair may request the speaker to confine debate to the subject motion.
- 43.2 If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may require the speaker to not speak further in respect of the matter then before the Chair.

**44. Procedure for Moving a Motion**

- 44.1 A Councillor who proposes a motion must state the motion without speaking to it.
- 44.2 The Chair must call for a seconder.
- 44.3 If there is no seconder, the motion lapses
- 44.4 If there is a seconder, the Chair will call upon the mover to address the meeting. The mover may exercise this right, decline the opportunity to speak or defer speaking.
- 44.5 After the mover has addressed the meeting (or reserved their right to speak) the seconder may address the meeting. The seconder may exercise this right or decline the opportunity to speak but cannot defer speaking.
- 44.6 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 call upon any Councillor who wishes to speak against the motion.
- 44.7 Where the mover of the motion elects to defer and there is a speaker against the motion the Chair will offer the mover the opportunity to speak to the motion prior to hearing the Councillor speak against the motion.

- 44.8 In circumstances where the mover has chosen to defer speaking to the motion and an amendment is moved and seconded, the mover of the motion may exercise the right to speak to the amendment subject to sub-Rule 34.2, however the mover no longer has the right to speak to the motion pursuant to sub-Rule 44.7. Where an amendment is lost the mover of the motion retains the right of reply on the motion pursuant to sub-Rule 34.2.
- 44.9 The Chair will then call for speakers for and against the motion in alternate sequence.
- 44.10 When the sequence of alternate speakers is exhausted, notwithstanding that there are further speakers wishing to be heard on one side of the motion, the Chair may put the motion provided they are satisfied that debate has been fully exhausted.
- 44.11 Where debate has not been fully exhausted, further speakers may be heard in accordance with sub-Rule 32 prior to the motion being put.
- 44.12 The mover of a motion or amendment may, with the consent of the seconder, change the wording of the motion or amendment unless any Councillor opposes the change.
- 44.13 A Councillor calling the attention of the Chair to a point of order is not regarded as speaking to the motion or the amendment.
- 44.14 No motion may be withdrawn without the consent of the Meeting.
- 44.15 The mover of a motion must not introduce new material when exercising any right of reply.

**45. Moving an Amendment**

- 45.1 No notice need be given of any amendment to a motion.
- 45.2 Any Councillor except for the mover or seconder of the original motion may move or second an amendment.
- 45.3 The Chair shall take speakers for and against an amendment in alternate sequence in the same manner as for motions.
- 45.4 Amendments must be dealt with one at a time.
- 45.5 An amendment must be relevant to the motion upon which it is moved and not negate the original motion.
- 45.6 If a proposed amendment effectively negates the substance of the substantive motion, it shall be disallowed and ruled to be a foreshadowed motion and shall only be considered in the event that the motion is lost.
- 45.7 A second or subsequent amendment cannot be moved until the immediately preceding amendment is decided upon.
- 45.8 If an amendment is carried it becomes the substantive motion. The mover and seconder of the amendment become the mover and seconder of the substantive motion. Debate recommences as for a new motion.
- 45.9 No right of reply is available to any amendment.
- 45.10 An amendment can only be withdrawn by the mover.

**46. Foreshadowed Motions**

- 46.1 At any time during debate any Councillor may foreshadow a motion or amendment so as to inform the Meeting of their intention to move a motion or amendment at a later stage in the Meeting. This does not extend any special right to the foreshadowed motion.
- 46.2 A motion foreshadowed may be prefaced with a statement that in the event a particular motion before the meeting being resolved in a certain way, a Councillor intends to move a subsequent motion.
- 46.3 A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting. Therefore Council is not required to have foreshadowed motions recorded in the minutes until the foreshadowed motion is formally moved.
- 46.4 Any foreshadowed motion or amendment must relate to the matter under discussion.
- 46.5 The *Chair* is not obliged to accept foreshadowed motions.

**47. Councillors May Propose Notices of Motion**

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

**48. Notices of Motion**

- 48.1 A Notice of Motion must be in writing and lodged with the *Chief Executive Officer* at least fourteen (14) calendar days prior to the date fixed for holding the Meeting to allow sufficient time to include the Notice of Motion on the Agenda.
- 48.2 The *Chief Executive Officer* must date and number all Notices of Motion in the order received.
- 48.3 The Councillor proposing the Notice of Motion should circulate the draft Notice of Motion to all Councillors for information before lodging it with the *Chief Executive Officer*.
- 48.4 The *Chief Executive Officer*, or their delegate, must inform Councillors of any legal implications of any proposed Notice of Motion. This advice must be provided to all Councillors without fear or favour and prior to the Notice of Motion being made publicly available.
- 48.5 The Notice of Motion must relate to the objectives, role and functions of Council as outlined in the Act.
- 48.6 A Notice of Motion must call for a Council report if the Notice of Motion:
- (a) affects the levels of Council services;
  - (b) if it is inconsistent with the strategic objectives of the Council as outlined in the Council Plan;
  - (c) commits Council to expenditure not included in the adopted budget;
  - (d) establishes or amends Council policy;
  - (e) commits Council to any contractual arrangement; or
  - (f) concerns any litigation in respect of which Council is a party.

- 48.7 The *Chief Executive Officer* may reject any Notice of Motion which:
- (a) is vague or unclear in intention; or
  - (b) is defamatory or objectionable in language or nature; or
  - (c) may be prejudicial to any person or Council; or
  - (d) is outside the powers of Council.
- 48.8 If rejecting a Notice of Motion, the *Chief Executive Officer* must:
- (a) give the Councillor who lodged the Notice of Motion an opportunity to amend it prior to rejection, if it is practicable to do so; and
  - (b) if the Notice of Motion cannot be amended to the satisfaction of the Chief Executive Officer, notify, in writing, the Councillor who lodged the Notice of Motion of the rejection and the reasons for the rejection.
- 48.9 The *Chief Executive Officer* may designate a Notice of Motion to be confidential in accordance with the relevant grounds contained in the Act. A confidential Notice of Motion will be considered in a meeting that is closed to members of the public.
- 48.10 The full text of any Notice of Motion accepted by the Chief Executive Officer must be included in the Agenda.
- 48.11 A Councillor may by written notification to the *Chief Executive Officer* request their Notice of Motion to be withdrawn at any time.

**49. Moving a Notice of Motion**

- 49.1 If a Councillor who has lodged a Notice of Motion is absent from the meeting or fails to move the motion when called upon by the Chair, any other Councillor may move the motion.
- 49.2 If a Notice of Motion is not moved in accordance with sub-Rule 44.1, the Notice of Motion shall be deemed to have lapsed.
- 49.3 A Notice of Motion may be varied if leave of the meeting is granted.
- 49.4 A second or subsequent Notice of Motion to revoke or amend an earlier resolution must not be considered by Council until a period of three (3) months has elapsed after the date of the meeting at which the first or last motion of revocation was dealt with.
- 49.5 Further motions are only permissible in relation to a Notice of Motion that is carried, and not permissible in relation to a Notice of Motion that is lost.
- 49.6 A Notice of Motion cannot be considered in relation to a matter that is the subject of a rescission motion within three calendar months of the rescission motion having been dealt with, unless a notice signed by a majority of all Councillors is submitted to the *Chief Executive Officer*.

**50. Notice of Rescission or Alteration of Resolutions**

- 50.1 A Councillor may propose a motion to rescind or alter a resolution of Council provided:
- 50.1.1 it has been signed and dated by at least two Councillors;
  - 50.1.2 the resolution proposed to be rescinded has not been acted on; and



- 50.1.3 the notice of rescission or alteration is delivered to the *Chief Executive Officer* within 24 hours of the resolution having been made setting out -
- (a) the resolution to be rescinded or altered; and
  - (b) the meeting and date when the resolution was carried.
- 50.2 A resolution will be deemed to have been acted on if:
- 50.2.1 its contents have or substance has been communicated in *writing* to a person whose interests are materially affected by it; or
  - 50.2.2 a statutory process has been commenced
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 50.3 The *Chief Executive Officer* or an appropriate member of Council staff must defer implementing a resolution which:
- 50.3.1 has not been acted on; and
  - 50.3.2 is the subject of a *notice of rescission or alteration* which has been delivered to the *Chief Executive Officer* in accordance with sub-Rule 50.1.3,
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.
- 50.4 Rescission or alteration motions are to be lodged on a form provided for this purpose as appearing in Schedule 2 of this Chapter.
- 50.5 A rescission or alteration of a previous resolution must be passed by a majority of the whole Council.
- 50.6 Rescission or alteration motions are not permissible in respect of planning permit resolutions, planning scheme amendment resolutions or contract/tender acceptance resolutions.
- 50.7 A rescission or alteration motion is not permissible in respect of a rescission or alteration motion that has been carried.
- 50.8 In the event that a rescission motion is carried, a further motion is permissible in respect of that matter.

*It should be remembered that a notice of rescission or alteration is a form of notice of motion. Accordingly, all provisions in this Chapter regulating notices of motion equally apply to notices of rescission or alteration.*

## 51. Voting

- 51.1 When called upon by the Chair, the Councillors present must vote by a show of hands or as Council otherwise determines.
- 51.2 For the purposes of voting at a *Council meeting*, the Chair must put the motion or amendment first in the affirmative, then in the negative.
- 51.3 The question is determined in the affirmative by a majority of the Councillors present at a meeting at the time the vote is taken voting in favour of the question.

51.4 A Councillor has the right to abstain from voting. A Councillor who abstains from voting and remains in the meeting will be deemed to have voted against the motion. Abstaining from voting does not constitute cause for debate. Any abstention from voting will be recorded in the minutes.

51.5 The Chairperson may require a recount to be taken and shall declare the result.

**52. Second Vote**

52.1 In the event of an equality of votes, subject to the Act and these Rules, the Chair has a second vote.

52.2 Sub-Rule 52.1 does not apply in the event of an equality of votes in respect of the election of Mayor, Deputy Mayor, Chairs of Delegated Committees, a rescission or alteration motion, or in cases where the Act provides that a matter or amendment is to be determined by lot.

**53. No Discussion once Declared**

53.1 Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless:

- (a) a Councillor requests that their opposition to the motion be recorded in the minutes; or
- (b) there is a call for a division.

**54. Vote to be Taken in Silence**

54.1 Except that a Councillor may call a division, Councillors must remain seated in silence while a vote is being taken.

**55. Divisions**

55.1 A division may be requested by any Councillor on any matter.

55.2 A request for a division must be made to the Chair immediately prior to, or immediately after the relevant vote is taken, but cannot be requested after a subsequent item of business has commenced.

55.3 A division is a separate and distinct vote and will determine the Council's resolution on the motion or amendment. No Councillor is prevented from changing their original vote at the call for a division.

55.4 Once a division has been requested, the Chair must first ask each Councillor wishing to vote in the affirmative to raise their hand and then ask each Councillor wishing to vote in the negative to raise their hand.

55.5 The names of those voting in the affirmative and in the negative, together with those that abstained are to be recorded in the minutes of the meeting.

55.6 All Councillors who cast votes originally must remain in the Chamber whilst the division is taken.

55.7 Councillors who were absent for the original vote but who have returned in time to vote on the division may cast a vote.

55.8 The Chair will then declare the result of the division.



**Division 8 – Procedural Motions****56. Procedural Motions**

- 56.1 A procedural motion, unless otherwise prohibited, may be moved at any time and shall be dealt with immediately by the Chair.
- 56.2 A procedural motion is required to be seconded.
- 56.3 The Chair cannot move a procedural motion.
- 56.4 Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- 56.5 Unless otherwise provided a procedural motion cannot be amended.
- 56.6 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

**PROCEDURAL MOTIONS TABLE**

<b>Procedural motion</b>	<b>Form</b>	<b>Who can move or second</b>	<b>Is a seconder Required?</b>	<b>Matters in respect of which motion may be moved</b>	<b>When motion prohibited</b>	<b>Effect if carried</b>	<b>Effect if lost</b>
Adjournment of debate to later hour/date	That this matter be adjourned until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson (b) When another Councillor is speaking	Motion and amendments postponed to the stated time/date	Debate continues unaffected
Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson (b) When another Councillor is speaking	Motion and amendments postponed but may be resumed: (a) At the same meeting upon motion to resume (b) At any later meeting if on the Agenda	Debate continues unaffected
Adjournment of meeting to later hour/date	That this meeting be adjourned until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson (b) When another Councillor is speaking	Meeting adjourns immediately until the stated time/date	Debate continues unaffected
Adjournment of meeting indefinitely	That this meeting be adjourned until further notice	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson (b) When another Councillor is speaking	Meeting adjourns until further notice	Debate continues unaffected

Procedural motion	Form	Who can move or second	Is a seconder Required?	Matters in respect of which motion may be moved	When motion prohibited	Effect if carried	Effect if lost
Deferral of matter/item	That this matter be deferred until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chair (b) When another Councillor is speaking	Matter/item deferred to the stated time/date Consideration starts afresh	Debate continues unaffected
Withdrawal of item	That this matter be withdrawn	Any Councillor	Yes	Any matter	(a) During the election of the Chair (b) When another Councillor is speaking	Matter/item withdrawn from consideration	Debate continues unaffected
The Closure	That the question be now put	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	Yes	Any matter	During nominations for Chair (A closure motion shall not be accepted by the Chair unless the Chair considers that there has been sufficient debate for and against the motion or amendment)	Motion or amendment in respect of which the closure is carried is put to the vote immediately	Debate continues unaffected
Laying the matter on the table	That the matter lie on the table	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	Yes	Any matter	(a) During the election of the Chair	Motion and amendments not further discussed or voted on until: (a) Council resolves to take the question from the table at the same meeting (b) Matter is placed on a future Agenda and the Council resolves to take the question from the table	Debate continues unaffected

Procedural motion	Form	Who can move or second	Is a seconder Required?	Matters in respect of which motion may be moved	When motion prohibited	Effect if carried	Effect if lost
Proceeding to the next business	That the meeting proceed to the next business	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	Yes	Any matter	(a) During the election of the Chair	(a) If carried in respect to a motion, its effect is to remove that motion from consideration  (b) If carried in respect to an amendment, its effect is to dispose of the amendment and debate resumes upon the substantive motion	Debate resumed at point of interruption

**Division 9 – Question Time****57. Public Question Time**

- 57.1 Unless Council resolves to the contrary, there shall be a public question time at every Council meeting to allow members of the public to submit questions to Council.
- 57.2 Members of the public are permitted to prepare and submit up to two questions on any Council matter.
- 57.3 The number of questions that may be asked on any one issue shall be limited to two. It is at the discretion of the Chair which two questions will be asked where there are more than two submitted. Like questions may be grouped together and a single answer provided.
- 57.4 Members of the public will be required to submit their question in writing on the designated Public Question Time form as provided in Schedule 1 of this Chapter, indicating their name, address and question.
- 57.5 Questions should be received by Council by 5.00pm on the day prior to the Council meeting to receive a verbal response at the meeting.
- 57.6 Questions not received by 5.00pm on the day prior to the Council meeting must be placed in the public question time box in the Council Chamber by the commencement of the Council meeting. A verbal response will be provided if possible, however, where a meaningful response to a question cannot be provided, or a detailed or researched response is required, the question may be taken on notice.
- 57.7 The Chair will have the right to refuse to receive or answer any question, or to take the question on notice.
- 57.8 Questions taken on notice will be subject to a written response within 10 working days of the meeting.
- 57.9 The procedure and sequence for dealing with a question shall be:
- (a) provided that the questioner is present in the gallery, the Chair shall invite the questioner forward to read their question and make a brief introductory statement of no more than 2 minutes;
  - (b) the Chair may invite the questioner to address the Council on points of clarification or elaboration, the duration of which is at the Chair's discretion;
  - (c) the Chair may answer the question or direct the question as they deem appropriate; and
  - (d) a Councillor wishing to provide an individual response to a question will be permitted to do so after the Chair has had the opportunity to respond.
- 57.10 If the questioner is not present in the public gallery, a response will be supplied in writing.
- 57.11 All questions and answers shall be as brief as possible and no discussion shall be permitted on any question.

- 57.12 If providing a question in writing and or in English unreasonably prevents or hinders participation in public question time, assistance with submitting questions is available from Council via an interpreter service provided the questions are received by 5.00pm on the day prior to the Council meeting.
- 57.13 A time limit of 30 minutes will apply to Public Question Time but may be extended by resolution of Council.
- 57.14 A question may be disallowed by the Chair on the ground that it:
- (a) relates to a matter outside the duties, functions and powers of Council; or
  - (b) is confidential in nature and/or is of legal significance; or
  - (c) may reasonably be considered to be defamatory, indecent, abusive, offensive or objectionable in language or substance; or
  - (d) is repetitive of a question already answered; or
  - (e) is asked to embarrass the Council, a Councillor or an Officer.
- 57.15 Public Question Time will be conducted in a respectful manner. Disorderly conduct will be managed in accordance with Division 12 of this Chapter.

**58. Councillors' Question Time**

- 58.1 Councillors' Question time is to enable Councillors to address questions to Officers.
- 58.2 Questions may be asked with or without notice.
- 58.3 A question upon notice must be delivered to the Chief Executive Officer not later than 12 noon on the second Monday prior to the time fixed for holding the Meeting at which the question on notice will be asked and the Chief Executive Officer must include the question on the Agenda for the Meeting.
- 58.4 An Officer is not obliged to answer a question without notice.
- 58.5 The Officer may answer the question or reply that notice is required.
- 58.6 If an Officer does not answer a question asked without notice a written response is to be provided to all Councillors no later than the second Friday after the Meeting.
- 58.7 All questions and answers must be as brief as possible and no discussion is allowed.
- 58.8 A question may be disallowed by the Chair if it:
- (a) relates to a matter other than Council business; or
  - (b) is defamatory, indirect, obscure, abusive or objectionable in language or substance; or
  - (c) is repetitive of a question already answered (whether at the same or an earlier Meeting); or
  - (d) is confidential in nature and/or is of legal significance; or
  - (e) is asked to embarrass Council, a Councillor or an Officer.

**Division 10 – Petitions and Submissions****59. Petitions**

- 59.1 Petitions are to be presented by Councillors at the Meeting in accordance with any Council policy and;
- (a) must be in a legible and permanent form of writing, typing or printing;
  - (b) must not be defamatory, indecent, abusive or objectionable in language or substance;
  - (c) must not relate to a matter beyond the powers of Council; and
  - (d) with the exception of online petitions which have been printed by Council officers, every page of the petition must bear the wording of the whole of the petition and include the name, address and signature of petitioners
- 59.2 Any signature appearing on a page which does not bear the text of the whole of the petition may not be considered by *Council*.
- 59.3 Every page of a petition 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.
- 59.4 If the requirements of sub-Rule 59.1 unreasonably prevents or hinders the capacity of any person to prepare a petition, assistance is available from Council via an interpreter or translation service.
- 59.5 Council will hear submitters afforded statutory rights of address and other submitters in accordance with any Council policy.
- 59.6 If a petition relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* or their delegate for consideration.

**Division 11 – Minutes****60. Minutes**

- 60.1 The minutes shall record the business transacted at each Meeting including:-
- (a) the date, place, time and nature of the meeting;
  - (b) the names of the Councillors:
    - (i) present; and
    - (ii) who have submitted apologies or who have been granted leave of absence;
  - (c) the names of the Officers present and their organisational title;
  - (d) any disclosures of conflict of interest;
  - (e) each motion and amendment moved (including motions that lapse for the want of a seconder) and motions and amendments withdrawn by resolution or by leave of the Meeting;
  - (f) whether motions or amendments were carried or lost;
  - (g) the vote cast by each Councillor upon a division, either FOR, AGAINST or any Councillor who has ABSTAINED;
  - (h) the failure of a quorum;

- (i) closure of a Meeting to members of the public in accordance with the provisions of the Act;
- (j) when requested by a Councillor, a record of their support or opposition to any resolution; and
- (k) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.

#### 61. Confirmation of Minutes

- 61.1 At every Council Meeting, the minutes of the preceding Council Meeting must be dealt with as follows:
- (a) if the minutes have been distributed to each Councillor at least 48 hours before the Meeting, a motion must be passed for the confirmation of the minutes; or
  - (b) if the minutes have not been so distributed, the minutes must be held over for confirmation at the next Meeting.
- 61.2 Minutes of a meeting not fixed by Council will be listed for confirmation at an appropriate Council meeting.
- 61.3 No discussion or amendment is permitted on the minutes except as to their accuracy as a record of the proceedings.
- 61.4 If a Councillor is dissatisfied with the accuracy of the Minutes, then the Councillor must:
- (a) state the item or items with which they are dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- 61.5 Once the minutes are confirmed, with or without amendment, they must be signed by the Chairperson of the Meeting at which they were confirmed.
- 61.6 unless otherwise resolved or required by law, minutes of a Delegated Committee requiring confirmation by Council must not be available to the public until confirmed by Council.

#### 62. Form and Availability of Minutes

- 62.1 The *Chief Executive Officer* must ensure that the minutes of any *Council meeting* are:
- 62.1.1 published on *Council's* website; and
  - 62.1.2 available for inspection at *Council's* office during normal business hours.
- 62.2 Nothing in sub-Rule 62.1 requires *Council* or the *Chief Executive Officer* to make public any minutes relating to a *Council meeting* or part of a *Council meeting* closed to members of the public in accordance with section 66 of the *Act*.



**Division 12 – Behaviour****63. Public Addressing the Meeting**

- 63.1 Except as provided for in sub-Rule 57, a person other than a Councillor or Officer must not address the Council meeting until a resolution approving such has been carried by a majority of Councillors present at the meeting.
- 63.2 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.
- 63.3 A member of the public present at a *Council meeting* must not disrupt the meeting.

**64. 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 63.2.

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

**65. Chair may adjourn disorderly meeting**

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rule 18 apply.

**66. Removal from Chamber**

The *Chair* may ask the *Chief Executive Officer*, an *Authorised 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 67.

**Division 13 – Additional Duties of the Chair****67. The Chair's Duties and Discretions**

- 67.1 In addition to the duties and discretions provided in this Chapter, the Chair:
- (a) must not accept or entertain any motion, question or statement which is derogatory, defamatory, objectionable in language or embarrassing to any Councillor, member of staff, ratepayer or member of the public;
  - (b) the Chair must call to order any person including any Councillor who is disruptive or unruly during any Meeting;
  - (c) the Chair may remain seated during all or any part of any Meeting.

**Division 14 – Miscellaneous****68. Absence of the Mayor at Council Meetings**

If the *Mayor* is unable to attend a Council meeting for any reason, or is not present at the commencement of a Council meeting:

68.1 The *Deputy Mayor* will act as Chair; or if not present

68.2 A Councillor present at the meeting will be appointed by resolution to chair the meeting;

for the duration of the *Mayor's* absence.

**69. Recording Proceedings**

69.1 Any person must not, without the prior approval of the Chair, operate any audio or visual recording equipment at any Council meeting.

69.2 Nothing in sub-Rule 69.1 applies to any member of Council staff operating any cameras or recording device for the purpose of any presentations or keeping a record of the Council meeting.

69.3 Where the meeting is to be recorded pursuant to sub-Rules 69.1 and 69.2, the Chair must as soon as practicable after the opening of the Council meeting, advise those who are in attendance that their image and/or voices are likely to be recorded during the course of the Council meeting.

**70. Appointment of Councillors to Committees and External Bodies**

70.1 The appointment of Councillors to positions on committees and external bodies will be subject to the voting procedures in Rules 4-7 inclusive where the number of candidates exceeds the number of vacant positions.

70.2 Despite the restrictions contained in sub-Rules 7.1.7 and 7.1.8, the Chair has a second vote where there is an equality of votes between candidates under this clause.

**71. Meetings Conducted Remotely**

If:

71.1 by law a meeting may be conducted electronically; and

71.2 *Council* decides that a meeting is to be conducted electronically,

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

**72. Procedure not provided in this Chapter**

- 72.1 Where a circumstance has not been provided for in this Chapter or is unclear, the Chair may elect to have the matter determined by resolution of Council.
- 72.2 The ruling of the Chair upon all questions of order and of matters arising in debate shall be final unless otherwise provided for in these Rules.
- 72.3 The Council may by resolution, adopt policies which complement these Rules and which facilitate the efficient and effective conduct of meetings.

## SCHEDULE 1

# Public Question Time Form

This form is required to be completed and submitted to Council by 5.00pm on the day prior to the Council meeting in order to receive a verbal response at the meeting. Alternatively the form can be placed in the question box located in the gallery by the commencement of the meeting.

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**QUESTION 1:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**QUESTION 2:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### GUIDELINES FOR PUBLIC QUESTION TIME

1. Public question time shall be taken in the normal order of business listed on the Agenda.
2. Provided the questioner is present at the meeting, the Chairperson shall invite the questioner forward to read their question and make a brief introductory statement of no more than 2 minutes.
3. The Chairperson may answer the question or direct the question as they deem appropriate.
4. Once a question has been answered there will be no further discussion.
5. The number of questions that any one person may ask shall be limited to two.
6. The number of questions that may be asked on any one issue shall be limited to two. It is at the discretion of the Chairperson which two questions will be asked. Like questions may be grouped together and a single answer provided. Should a large number of persons be present in relation to an issue, it may be advantageous to appoint a spokesperson on behalf of the group to present the questions.
7. The Chairperson has the right to refuse to receive or answer any question, or to take a question on notice. Questions taken on notice will be responded to in writing within 10 working days of the meeting.
8. Public Question Time is to be conducted in an orderly and respectful manner and participants are asked to keep this in mind when making statements.

#### Privacy Statement

*"Manningham City Council is committed to full compliance with its obligations under the Privacy and Data Protection 2014 (Vic). The personal information requested on this form is being collected by Council for the purposes of hearing public questions at a Council meeting and to allow subsequent communication with questioners as required. The information will be used by Council for these purposes and for other permitted purposes. Council will disclose the question and personal information to the general public during the meeting. The question and questioner's first name initial, surname and suburb will also be published in the public minutes of the meeting and associated audio/visual recordings. Requests for access to and/or correction of the information provided may be made to Council's Privacy Officer. A copy of Council's Privacy Policy is available on our website at [www.manningham.vic.gov.au/privacy](http://www.manningham.vic.gov.au/privacy)"*

SCHEDULE 2

Rescission or Alteration Motion

The following guidelines apply for the lodgement of a notice of intention to move that a resolution passed by Council be rescinded or altered:

- 1. Notices of rescission or alteration must be in the correct format, viz:

It is my intention to move at the Ordinary Meeting of Council to be held on / /

Multiple horizontal lines for writing the details of the motion.

- 2. Such notices are to be signed by at least two Councillors and lodged with the Chief Executive Officer or nominee by 5 pm on the day following the Council meeting.

Cr ..... (print name)

Cr ..... (print name)

..... (signature)

..... (signature)

Received by ..... (officer's name)

at ..... (time)

on ..... (date)



# MEETING PROCEDURE FOR DELEGATED COMMITTEES

## Chapter 3

### 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.

# MEETING PROCEDURE FOR COMMUNITY ASSET COMMITTEES

## Chapter 4



## Chapter 4 – Meeting Procedure for Community Asset Committees

### 1. Introduction

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

### 2. Meeting Procedure

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

# DISCLOSURE OF CONFLICTS OF INTEREST

## Chapter 5

## Chapter 5 – Disclosure of Conflicts of Interest

### 1. Introduction

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

### 2. Definition

In this Chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.1 A member of Council staff who, in his or her capacity as a member of Council staff, has a conflict of interest in a matter in respect of which he or she is preparing or contributing to the preparation of a Report for the consideration of a:

- 7.1.1 *Council meeting*;
- 7.1.2 *Delegated Committee* meeting;
- 7.1.3 *Community Asset Committee* 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.

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

7.3 If the member of Council staff referred to in sub-Rule 7.1 is the *Chief Executive Officer*:

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

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

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

8.2 If the member of Council staff referred to in sub-Rule 8.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

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

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

9.2 If the member of Council staff referred to in sub-Rule 9.1 is the *Chief Executive Officer* the written notice must be given to the *Mayor*.

**10. Retention of Written Notices**

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

# MISCELLANEOUS

## Chapter 6

## Chapter 6 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors that:

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

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

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

### 2. Confidential Information

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



# ELECTION PERIOD POLICY 2020

## Chapter 7



## ELECTION PERIOD POLICY 2020

Policy Classification	- <b>Governance</b>
Policy N°	- <b>POL/507</b>
Policy Status	- <b>Current</b>
Responsible Service Unit	- <b>Strategic Governance</b>
Authorised by	- <b>Council</b>
Date Adopted	- <b>26 November 2019</b>
Next Review Date	- <b>31 August 2023</b>

*This policy is part of a suite of policies adopted by Council or the Executive Management Team (EMT).*

*New or replacement policies can be created and developed within Service Units but can only be added to Council's Policy Register by Governance Services following the approval of the policy by Council or the EMT.*





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## 1. PURPOSE

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The *Local Government Act 2020* ('the Act') provides that during the 32 days immediately prior to municipal general elections all Victorian councils enter an election period (sometimes called a 'caretaker period'). At this time certain legislative prohibitions apply to the general functions and powers of the Council among which Councils are prohibited from publishing or distributing electoral matter. The Act also mandates that Council must prepare, adopt and maintain an election period policy.

The election period extends for 32 days from the last day nominations for the election can be received, until 6pm on election day. During this lead up period to the general elections, Council needs to avoid actions and decisions which could be perceived as intended to affect the results of an election, give Councillor candidates an advantage or have a significant impact on or unnecessarily bind the incoming Council.

The purpose of this Policy therefore is to explain to the local community and candidates for election to Council how Manningham City Council will conduct its business over the election period to ensure that:-

- Council is able to continue to deliver normal works and services to the local community;
- Council avoids making decisions that may be interpreted as influencing voters;
- the elections are not compromised by inappropriate electioneering by Councillors; and
- to safeguard the authority of the incoming council.

This Policy has been developed in order to ensure that the general elections are conducted in a manner that is fair and equitable to all candidates, and are publicly perceived as such.

The principles contained within this Policy will ensure transparent and accountable governance practices are in place in the lead up to and throughout the election period.

## 2. POLICY STATEMENT

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Manningham City Council, in stating its commitment to the principle of fair and democratic elections, adopts and endorses the practices detailed within this policy statement in addition to the legislative requirements within the Act.

### 2.1 Prohibited decisions

Council is prohibited from making any Council decision:

- (a) during the election period for a general election that:
  - (i) 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
  - (ii) commits the Council to expenditure exceeding one per cent of the Council's income from general rates, municipal charges and service rates and charges in the preceding financial year; or

- (iii) the Council considers could be reasonably deferred until the next Council is in place; or
- (iv) the Council considers should not be made during an election period; or
- (b) during the election period for a general election or a by-election that would enable the use of Council's resources in a way that is intended to influence, or is likely to influence, voting at the election.

## 2.2 What is a Council decision?

For the purposes of clause 2.1 of this Policy, **Council decision** means the following:

- (a) a resolution made at a Council meeting;
- (b) a resolution made at a meeting of a delegated committee; or
- (c) the exercise of a power or the performance of a duty or function of Council by a member of Council staff (which includes the Chief Executive Officer) or a Community Asset Committee under delegation.

## 2.3 Council Meetings during the Election Period

- 2.3.1 Council acknowledges that in the lead up to its general elections, it will not make any decision that would, or could be perceived to, inappropriately bind an incoming Council or affect the outcome of the elections.
- 2.3.2 Council acknowledges that Councillors have been elected to represent the local community and this obligation continues during the election period. Councillors must avoid any conflict, or appearance of conflict, between their role as Councillor and their role as a candidate or prospective candidate.
- 2.3.3 To ensure the general day-to-day administration of Council is not held up for an excessive time period, Council will hold an Ordinary meeting in October to consider routine administrative matters and the Annual Report.
- 2.3.4 The Chief Executive Officer will ensure that no matters that would be contrary to this Policy are presented to Council for discussion, consideration or decision.
- 2.3.5 The Chief Executive Officer will also ensure that none of the following matters will be presented to the October ordinary Council meeting:-
  - Adoption of a new policy, strategy or significant planning amendment
  - Adoption of a new rate or charge
  - The purchase or sale of land
  - The approval of community grants
  - The spending of unbudgeted monies
  - The conduct of any public consultation on significant issues
  - Changes to the annual budget or capital works program
  - Any other matter that the Chief Executive Officer deems could affect voting in an election, significantly affects the municipality, local community or will unreasonably bind the incoming Council.
- 2.3.6 The following activities, normally held at an ordinary council meeting, will not be permitted during the election period: These are:-
  - Public question time
  - Petitions

- Presentations
- Councillor question time
- Rescission or alteration motions
- Notices of Motion.

- 2.3.7 No meetings of Delegated Committees Advisory Committees, or Strategic Briefing Sessions will be held during the election period.
- 2.3.8 The Chief Executive Officer will, where possible, ensure that any matters requiring a council decision are scheduled to go to a Council Meeting prior to the commencement of the election period or deferred for determination by the incoming Council. The determination as to whether any matter is to go to a Council meeting will be made by the Chief Executive Officer.

## 2.4 Community Engagement and Consultation

- 2.4.1 Community engagement is about involving stakeholders (those people affected by a decision) and the community in a decision making process. A sound engagement process offers opportunities for residents and key stakeholders to contribute to and influence decisions that directly affect their community.
- 2.4.2 After the commencement of the election period, Council will not commence public consultation on any matter which, in the opinion of the Chief Executive Officer, is a matter which is likely to affect voting at the elections. If public consultation on such a matter commenced prior to the beginning of the election period, it shall be held in abeyance until after the election.
- 2.4.3 Other public consultations, including public submissions and hearings pursuant to section 223 of the *Local Government Act 1989*, during the election period are to be avoided.
- 2.4.4 The requirements of clause 2.3.6 may not apply to statutorily required consultation under the *Planning and Environment Act 1987* or matters of a special or emergency nature. In such circumstances, the Chief Executive Officer must justify the special circumstances requiring the public consultation to the local community and ensure that the public consultation session is managed and chaired by a Director or the Chief Executive Officer and not the Mayor or a Councillor.
- 2.4.5 The Mayor and Councillors are entitled to attend any public consultation session held within the election period. If attending in an official capacity, Councillors must not use their attendance as an opportunity for electioneering.
- 2.4.6 Consultations will avoid any express or implied links to the election.

## 2.5 Council Events

- 2.5.1 No Council events, either sponsored or under the auspices of or run by Council, are to take place during the election period. This includes Council sponsored events such as launches, festivals and any other public forum outside of the normal Council meeting cycle.

- 2.5.2 An event will only be conducted if it is unexpected or unavoidable and with the express permission of the Chief Executive Officer. If an event is to be undertaken, the Chief Executive Officer must justify to the local community why it is being held and how risks over influencing the election will be mitigated or prevented.
- 2.5.3 At any such event conducted pursuant to 2.5.2, Councillors are able to attend, as is any candidate, but are not to have any official role at the event and the event is to be managed and chaired by a Director or the Chief Executive Officer and not the Mayor or a Councillor.
- 2.5.4 Publicity of Council events (if any during the period) will be restricted to the communication of factual material only and will not feature, mention or quote or contain any photo of any Councillor.
- 2.5.5 No Councillor participation at Council sponsored events (if any during the election period) will be permitted, except for the Mayor, pursuant to clause 2.5.7.
- 2.5.6 No election material or active campaigning is to be conducted at any Council events (if any during the election period) and no Council event is to be used for, or linked in any way, to a candidate's election campaign.
- 2.5.7 Any citizenship ceremonies should be planned to be held outside the election period, but if this is unavoidable, the participation of the Mayor at such a ceremonial event is permitted as the participants will not be voters at the general elections. Any speech by the Mayor at a citizenship ceremony must be written by Council Staff and approved by the Chief Executive Officer and read by the Mayor as prepared.

## 2.6 Candidates' Access to Information

- 2.6.1 While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, it is also important that candidates at the elections have equal rights to Council held information relevant to their election campaigns.
- 2.6.2 Any requests for information from Councillors or candidates during the election period should be directed in the first instance to the Group Manager Governance and Risk, the appropriate Director, or the Chief Executive Officer.
- 2.6.3 Neither Councillors nor candidates will receive information or advice from Council staff that might be perceived to support election campaigns and only information that can be reasonably accessed will be released.
- 2.6.4 Information and briefing material prepared for Councillors during the election period will relate only to factual matters or to existing Council services to assist Councillors in conducting normal day to day activities. Any information or briefing material to be provided is only to be sent by the Group Manager Governance and Risk, the appropriate Director or Chief Executive Officer.



- 2.6.5 To ensure complete transparency in the provision of all information and advice during the election period, an Information Request Register will be established. This register will record all requests for information including those under 2.6.3 made by all candidates (including existing Councillors) relating to electoral and other matters and the responses given to those requests. The register will be a public document available for public inspection and displayed on Council's website. This is to ensure that this information is available to all candidates in the election. It will be managed and maintained by the Senior Governance Advisor commencing on the opening of nominations.
- 2.6.6 Section 76D of the *Local Government Act 1989* concerns the improper use of position of a Councillor and prescribes serious penalties for any Councillor who inappropriately makes use of their position or information obtained in their role as a Councillor, to gain an advantage.

## 2.7 Council Publications and Electoral Matter

It is prohibited under section 304 of the Act for a Councillor or member of Council staff to print, publish or distribute, or to cause, permit or authorise others to print, publish or distribute on behalf of the Council, any advertisement, handbill, pamphlet or notice that contains electoral matter during the election period. This is to ensure that Council does not use public funds that may influence or be seen to influence people's voting intentions. Electoral matter is any matter that is "intended or likely to affect voting in an election" and includes (but is not limited to) material that deals with the election, candidates or issues of contention in the election.

### 2.7.1 Material is electoral matter if it:

- Publicises the strength or weaknesses of a candidate;
- Advocates the policies of the Council or of a candidate
- Responds to claims made by a candidate;
- Publicises the achievements of the elected Council;
- Publicises matters that have already been the subject of public debate;
- About matters that are known to be contentious in the local; community and likely to be the subject of election debate;
- Dealing with election candidates statements; or
- Referring to Councillors or candidates by name or by implicit reference.

### 2.7.2 Considerations of Chief Executive Officer in granting publication approval

In considering whether to grant approval for the publication of material during the election period the Chief Executive Officer:

- (a) **Must not permit** any materials to be published which include reference to the following:
- (i) the election;
  - (ii) a candidate in the election;
  - (iii) a current Councillor; or
  - (iv) an issue before the voters in connection with the election.



- (b) **May approve the** publication of material which only contains factual information about:
  - (i) the election process itself; or
  - (ii) Council information that does not include any reference to a current Councillor otherwise precluded by this policy.

#### 2.7.3 Council Agendas and Reports

During the election period, the Chief Executive Officer will ensure that an **"Election Period Statement"** is included in every report submitted to any Meeting of Council for a decision.

The "Election Period Statement" will advise that Council may make a decision regarding the subject of the report in compliance with Council's Election Period Policy 2020.

During the election period, Council will not make a decision on any matter or report that does not include the Election Period Statement.

#### 2.7.4 Annual Report

The Annual Report is an exempt document from the requirements of the election period. However, Council will ensure that the Annual Report produced in any election period will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

Information referring to specific Councillors will be limited to names, titles, contact details, membership of committees and other bodies to which they have been appointed by Council. A Mayor's message will be included and will be restricted to general Council business and not the specific achievements of elected representatives. The Chief Executive Officer will determine the appropriate content for an Annual Report produced in an election period.

#### 2.7.5 Councillor- Issued Materials

Councillors may publish campaign material on their own behalf, but cannot claim or imply that the material originated from, or was authorised by, Manningham City Council. For example, the use of Council logos, photographs, Council images etc. is not permitted.

### 2.8 Websites

2.8.1 No electoral matter will be placed on Council Websites during the election period.

2.8.2 The Chief Executive Officer will ensure that during the election period the only new publications on the websites will be those that do not breach this Policy, are essential for the conduct of Council operations and apolitical in nature.

- 2.8.3 For the avoidance of doubt, Council agendas, minutes and the Annual Report can be published on Council's websites.
- 2.8.4 For the duration of the election period a statement will be placed on Council's Websites advising that Council will not be regularly updating or adding new information during the election period other than necessary operational information.
- 2.8.5 Material published on Council's website in advance of the election period is permitted, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that would be considered electoral matter, were it to be published during the election period.
- 2.8.6 Profiles of the Mayor and Councillors will be removed from Council's websites during the election period but their contact details ie names, photos and mobile numbers will remain to assist with their day-to-day role as a Councillor.

## 2.9 Social Media

- 2.9.1 No electoral matter will be posted on Council social media sites during the election period. Any publication on Council social media sites, including Facebook, Twitter, blogs and wiki pages during the election period must be approved by the Chief Executive Officer or their delegate.
- 2.9.2 Staff responsible for administering individual social media sites will monitor their respective sites during the election period and use moderation features where available to ensure no electoral matter is posted.
- 2.9.3 Social media activity during the election period is to conform with the following:-
- Social media posts to be kept to a minimum, necessary operational information only;
  - No launches or announcements of any new projects, policy initiatives, or programs;
  - On all Facebook pages the 'post comments' from all facilities to be disabled;
  - YouTube videos to be removed and suspended during the period;
  - No matter is permitted that may be construed as electoral matter – accounts should be reviewed to ensure there is none;
  - No posting of or responding to political content is permitted;
  - During this time ensure moderation of all social media accounts; and
  - Keep all updates to a minimum.
- 2.9.4 For the duration of the election period a statement will be placed on social media sites advising that Council will not be regularly updating or adding new information during the election period other than necessary operational information.

## 2.10 Media Services

- 2.10.1 During the election period Council's Communications Unit's services must not be used in any way that might promote or be perceived as promoting a Councillor as an election candidate.
- 2.10.2 Council publicity and media releases during the election period will be restricted to communicating normal Council activities and initiatives and any such publicity will be subject to approval by the Chief Executive Officer or their delegate.
- 2.10.3 Media releases will exclude references to individual Councillors.
- 2.10.4 The Chief Executive Officer or their delegate will be the media spokesperson on any media releases.
- 2.10.5 **Councillors**  
Councillors will not use their position as an elected representative or their access to Council Staff and other Council resources to gain media attention in support of an election campaign.
- 2.10.6 **Council Employees**  
During the election period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained from the Chief Executive Officer.

## 2.11 Use of Council Resources

- 2.11.1 It is an established democratic principle that public resources must not be used in a manner that would influence the way people vote in elections. Council commits to this principle in that it will ensure Council resources are not used inappropriately during the election period while recognising that Councillors are entitled to continue to have access to those resources necessary for them to fulfil their elected roles and normal day-to-day duties to the local community.
- 2.11.2 Council resources include, but are not limited to vehicles, equipment, computers, printers, mobile and landline phones, stationery, images, printing/copy services, meeting rooms, hospitality services, officers and support staff.
- 2.11.3 In order to ensure the proper use of Council resources during the election period the following will apply:-
- Councillors may **continue to use any Council resources** provided to them to facilitate their performance of **normal Councillor duties**, subject to existing protocols and terms of use. Councillors standing for re-election must not use such Council resources to assist with their election campaign;
  - Reimbursements of Councillors' **out-of-pocket expenses** during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign;

- **Equipment** provided to Councillors for the purpose of conducting normal Council business, such as **mobile phones, land lines and internet connections**, will not be used for campaigning purposes;
- No Council **logos, letterheads, or other Council branding** should be used for, or linked in any way to, a candidate's election campaign;
- **Photos or images** taken by or provided by Council are not to be used by Councillors for the purposes of electioneering or in support of their election campaign. This applies equally to images on Council websites that may be able to be copied;
- Any **email account** provided by Council to a Councillor to assist in representing the local community and undertaking normal day-to-day Councillor duties must not be used in electioneering and campaigning;
- **Community or Ward meetings** will not be held during the election period;
- No Council owned **vehicle** is to be used by a Councillor during the election period for attending any event other than an official Council event at which the Councillor is representing Council in an authorised official capacity;
- During the election period the **Mayoral robes and Chain of Office** are only to be worn on official civic occasions such as Meetings of the Council and citizenship ceremonies and not to be worn or displayed in any manner at any event that is not an official Council event.

2.11.4 A Councillor or candidate at the election, must not ask a member of Council staff to undertake any tasks connected directly or indirectly with a candidate's election campaign.

2.11.5 In the course of employment Council **staff must not:-**  
(a) undertake an activity that may affect voting in the election; or  
(b) authorise, use or allocate a Council resource for any purpose that may influence voting in the election.

Any Council staff member who thinks they are being placed in a **compromising situation** by a request from a Councillor or candidate should refer the Councillor or candidate to the Chief Executive Officer for clarification. They should also advise their Manager of their concern.

2.11.6 Prior to the election period the Chief Executive Officer will ensure that all members of Council **staff are advised of their obligations** in regard to the application of this Policy.

2.11.7 A copy of this Policy will be included in candidate information packs distributed at candidate information sessions.

## 2.12 Use of the Councillor Title

2.12.1 Councillors may use their title "Councillor" in their election material, as they continue to hold office during the election period. While a Councillor can refer to themselves as Councillor in communications it must be made clear that it is a communication of a candidate and not a position of Council.

### 2.13 Breach of Policy

- 2.13.1 Any breach of this Policy relating to officer conduct is to be referred to the Chief Executive Officer.
- 2.13.2 Alleged breaches relating to all other matters are to be referred to the Victorian Local Government Inspectorate.

### 2.14 Administrative Updates

- 2.14.1 From time to time, circumstances may change leading to the need for minor administrative changes to this Policy. Where an update does not materially alter this Policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of Manningham Council departments or a minor amendment to legislation that does not have material impact. Where any change or update may materially change the intent of this policy, it must be considered and only approved by Council.

## 3. SCOPE OF POLICY

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This Policy applies to all Councillors and Council Staff during the election period which starts on the last day on which nominations for the election can be received by the Election Manager and concludes on the Election Day.

Council committee members who are candidates for election are expected to comply with this policy and in addition:

- return any Council equipment, documents or information which are not available to the public for the duration of the election period; and
- if elected, immediately resign from the committee.

## 4. RESPONSIBILITY

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The Chief Executive Officer is the officer ultimately responsible for the implementation of this Policy with the Group Manager Governance and Risk being responsible for the operational aspects.

## 5. DEFINITIONS

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In this policy:-

**Chief Executive Officer** means the person appointed by a Council to be its Chief Executive Officer or any person acting in that position

**Council Events** means a gathering of people or a ceremony of some significance, either run by Council or auspiced by Council, that celebrates or recognises some specific aspect of community and generally creates publicity.

**Councillor** means a person who holds the office of member of a Council

**Councillor Code of Conduct** means the code of conduct developed by a Council under section 76C of the *Local Government Act 1989*

**Council staff** means the persons who are members of Council staff employed by the Chief Executive Officer

Note - The Chief Executive Officer is also a member of Council staff.

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

**Electoral matter** means matter which is intended or likely to affect voting in an election but does not include any electoral material produced by or on behalf of the Election Manager for the purposes of conducting an election. Without limiting the generality of the definition of **electoral matter**, matter is to be taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on—

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

**Election period**, in relation to an election, means the period that—

- (a) starts on the last day on which nominations for that election can be received; and
- (b) ends at 6 pm on election day;

**Local community** includes—

- (a) people who live in the municipal district
- (b) people and bodies who are ratepayers
- (c) people and bodies who conduct activities in the municipal district.

**Municipal district** means the district under the local government of a Council

**Printed electoral material** means an advertisement, handbill, pamphlet or notice that contains electoral matter

**Publish** means publish by any means including by publication on the Internet

**Ward** means a subdivision of a municipal district.

## 6. RELATED POLICIES

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- POL/194 - Councillor Allowance and Support Policy
- POL/416 - Social Media Policy
- POL/478 - Councillor IT Support and Equipment Policy
- Media Policy
- Manningham Councillor Code of Conduct
- Manningham Employee Code of Conduct

## 7. ACTION PLANS

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Nil.



**8. GUIDELINES**

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Nil.

**9. DOCUMENT HISTORY**

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<b>Policy Title:</b>	Election Period Policy
<b>Resp. Officer Position:</b>	Senior Governance Advisor
<b>Next Review Date:</b>	31 August 2023
<b>To be included on website?</b>	Yes

<b>Last Updated</b>	<b>Meeting type? - Council or EMT</b>	<b>Meeting Date</b>	<b>Item N°</b>
<i>Version 1</i>	<i>Council</i>	<i>29 March 2016</i>	
<i>Version 2</i>	<i>Council</i>	<i>26 November 2019</i>	<i>13.3</i>



## Contact Details

Council's Governance Team 9840 9210  
[www.manningham.vic.gov.au](http://www.manningham.vic.gov.au)

