

# Frankston City Council

# Governance Rules

Adopted 31 August 2020



*Lifestyle Capital of Victoria*

## GOVERNANCE RULES

### Introduction

**1. Nature of Rules**

These are the Governance Rules of Frankston 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	Governance Framework
Chapter 2	Meeting Procedure for Council Meetings
Chapter 3	Councillor Briefing Arrangements
Chapter 4	Meeting Procedure for Delegated Committees
Chapter 5	Meeting Procedure for Community Asset Committees
Chapter 6	Disclosure of Conflicts Of Interest
Chapter 7	Miscellaneous
Chapter 8	Election Period Policy

**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 Frankston City Council.

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

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

*Mayor* means the Mayor of *Council*.

*these Rules* means these Governance Rules.

## Chapter 1 – Governance Framework

### 1. Context

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

- (a) the overarching governance principles specified in section 9(2) of the *Act*; and
- (b) the following documents adopted or approved by *Council*:
  - (i) Public Submissions and Question Time Policy;
  - (ii) Public Transparency Policy;
  - (iii) Community Engagement Policy;
  - (iv) Councillor Code of Conduct;
  - (v) Councillor Expenses Policy; and
  - (vi) Notice of Motion Protocol.

### 2. Decision Making

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

- (iv) if a member of Council staff proposes to make a decision under delegation and that decision will directly affect the rights of a person or persons, the member of Council staff must, when making that decision, complete a Delegate Report that records that notice of the decision to be made was given to the person or persons and such person or persons were provided with an opportunity to communicate their views and their interests considered.

## Chapter 2 – Meeting Procedure for Council Meetings

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## PART A – INTRODUCTION

### 1. Title

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

### 2. Purpose of this Chapter

2.1 The purpose of this Chapter is to provide for the orderly, efficient and equitable conduct of *Council meetings*.

2.2 Specifically, this Chapter is to:

2.2.1 provide a mechanism to facilitate the good government of *Council* through its formal meeting procedure to ensure effective and efficient *Council* decisions are made in a manner which acknowledges the role of local government within the Australian system of government;

2.2.2 promote and encourage community participation in the system of local government by providing mechanisms for *Council* to ascertain the community's views and expectations;

2.2.3 provide for the election of the Mayor and any Deputy Mayor;

2.2.4 provide for the appointment of any Acting Mayor;

2.2.5 provide for the procedures governing the conduct of Council meetings, to facilitate their orderly, efficient and equitable operation; and

2.2.6 set the rules of behaviour for those participating in or present at 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*;

"*authorised officer*" means a person appointed as an Authorised Officer under section 224 of the *Local Government Act 1989*;

"*Chair*" means the Chairperson of a *meeting* and includes an acting, a temporary and a substitute Chairperson;

"*meeting*" means a *Council meeting*;



"*minute book*" means the collective record of proceedings of *Council*;

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

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

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

"*senior officer*" has the same meaning as in the *Local Government Act 1989*;

"*urgent business*" means business which is raised under Rule 21; and

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

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

## **PART B – ELECTION OF MAYOR**

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

### **4. Election of the *Mayor***

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

### **5. Method of voting**

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

### **6. Determining the election of the *Mayor***

6.1 The *Chief Executive Officer* must open the *meeting* at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.

6.2 Any nominations for the office of *Mayor* must be:

6.2.1 in writing and in a form prescribed by the Chief Executive Officer; and

6.2.2 seconded by another Councillor.

6.3 Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:

6.3.1 if there is only one nomination, the candidate nominated must be declared to be duly elected;

6.3.2 if there is more than one nomination, the Councillors present at the *meeting* must vote for one of the candidates and each of the candidates shall be allowed three minutes to speak to their nomination, which cannot be extended;

6.3.3 in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;

6.3.4 in the event that no candidate receives an absolute majority of the votes, the *meeting* must consider whether to exercise the discretion conferred by section 25(5) of the Act. If the *meeting* instead proceeds with the election, the candidate with the fewest number of votes will be declared to be a defeated candidate. The Councillors present at the *meeting* must then vote for one of the remaining candidates;

6.3.5 if one of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the *meeting* must consider

whether to exercise the discretion conferred by section 25(5) of the *Act*. If the *meeting* instead proceeds with the election, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;

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

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

the declaration will be determined by lot.

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

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

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

Any election for:

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

will be regulated by Rules 4-6 (inclusive) of this Chapter, as if, in the case of any election for Deputy Mayor, the reference to the:

- 7.3 *Chief Executive Officer* is a reference to the *Mayor*; and
- 7.4 *Mayor* is a reference to the Deputy Mayor or the Chair of the *Delegated Committee* (as the case may be).
- 7.5 The role of the Deputy Mayor is to perform the duties ascribed to the *Mayor* where the *Mayor* is absent, unless the Deputy Mayor has a conflict or is unavailable.

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

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

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

## **PART C – MEETINGS PROCEDURE**

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

### **DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS**

#### **9. Dates and times of meetings fixed by Council**

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

#### **10. Council may alter meeting dates**

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

#### **11. Meetings not fixed by Council**

11.1 The Mayor or at least 3 Councillors may by a written notice call a *Council meeting*.

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

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

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

#### **12. Notice of meeting**

12.1 A notice of *meeting*, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically (at the option of the Councillor) to every Councillor for each *Council meeting* after noon on a day which is at least four clear days before the *meeting*.

*If a Council meeting is scheduled for a Monday evening, the notice of meeting (including the agenda) must be delivered or sent electronically by the immediately preceding Thursday evening.*

12.2 Notwithstanding sub-Rule 12.1:

- 12.2.1 a draft *agenda* for each *Council meeting* must be delivered or sent electronically (at the option of the Councillor) to every Councillor at least ten clear days before the *meeting*; and
  - 12.2.2 a notice of *meeting* or draft *agenda* need not be served on or sent to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in writing to continue to give notice of any *meeting* during the period of his or her absence.
- 12.3 Reasonable notice of each *Council meeting* must be provided to the public. *Council* may do this:
- 12.3.1 for *meetings* which it has fixed by preparing a schedule of *meetings* annually, twice yearly or from time to time, and arranging publication of such schedule on *Council's* website and in a local newspaper either at various times throughout the year, or prior to each such *Council meeting*; and
  - 12.3.2 for any *meeting* by giving notice on its website and:
    - (a) in each of its Customer Service Centres; and/or
    - (b) in at least one local newspaper or daily metropolitan newspaper.
- 12.4 Copies of the *agenda* and any related material for *Council meetings* must be made available to members of the public after noon on a day which is at least four clear days before the *meeting*, by being made available at the Civic Centre and on *Council's* website.

*If a Council meeting is scheduled for a Monday evening, the agenda and any related material must appear on Council's website by the immediately preceding Thursday evening. Hard copies of the agenda and any related material must be available for inspection or collection from the Friday morning immediately preceding the Monday evening meeting.*

## DIVISION 2 – QUORUMS

### 13. Scheduled *meetings*

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

### 14. Inability to obtain a quorum

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

- 14.1 the *meeting* will be deemed to have lapsed;
- 14.2 the agenda for which will be identical to the agenda for the lapsed *meeting*; and
- 14.3 the *Chief Executive Officer* must give all Councillors *written notice* of the *meeting* convened by the *Mayor*.

## 15. Inability to maintain a quorum

- 15.1 If, during any Council *meeting*, a quorum cannot be maintained then Rule 14 will apply as if the reference to the *meeting* is a reference to so much of the *meeting* as remains.
- 15.2 Sub-Rule 15.1 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.

## 16. Adjourned *meetings*

- 16.1 The *Chief Executive Officer* must give notice to each Councillor of the date, time and place to which the *meeting* stands adjourned and of the business remaining to be considered.
- 16.2 If it is impracticable for the notice given under sub-Rule 16.1 to be in writing, the *Chief Executive Officer* must give notice to each Councillor by telephone, in person, by electronic mail or by SMS message.
- 16.3 Notice must also be provided to the public of the resumption of the adjourned *meeting* by publishing details on *Council's* website and posting a notice at the entrance to the Council Chambers and Civic Centre.

## 17. Time limits for *meetings*

- 17.1 A *Council meeting* must not continue for more than four hours from its commencement unless a majority of Councillors present vote in favour of it continuing.
- 17.2 Notwithstanding sub-Rule 17.1, a motion to continue the *meeting* need not be moved until after consideration of that item of business which was before the *meeting* as soon as four hours passed since the commencement of the *meeting*.
- 17.3 A continuance must not exceed 30 minutes.
- 17.4 In the absence of such continuance, the *meeting* must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the *meeting* standing adjourned. In that event, the provisions of sub-Rules 16.1 and 16.2 apply.

## **18. Cancellation or postponement of a *meeting***

- 18.1 The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting*, cancel or postpone a *Council meeting*.
- 18.2 The *Chief Executive Officer* must present to the immediately following *Council meeting* a written report on any exercise of the power conferred by sub-Rule 18.1.

## **DIVISION 3 – BUSINESS OF MEETINGS**

### **19. Agenda and the order of business**

- 19.1 The *agenda* and the order of business for a *Council meeting* will be determined by the Mayor and the *Chief Executive Officer* jointly, so as to facilitate and maintain open, efficient and effective processes of government, but the views of Councillors expressed at any relevant Councillor briefing are to be taken into account in finalising the *agenda* and the order of business.
- 19.2 Notwithstanding sub-Rule 19.1, the *Chief Executive Officer* may vary the order of business to take advantage of opportunities which may arise from time to time.
- 19.3 Late reports can only be accepted into the *agenda* with the consent of *Council*.

### **20. Change to order of business**

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

### **21. Urgent business**

- 21.1 Business which has not been listed on the *agenda* for a *meeting* must only be raised as *urgent business* by resolution of *Council*.
- 21.2 A Councillor who wishes to raise an item of *urgent business* must state the motion for the proposed item of *urgent business*, to enable *Council* to determine whether the item will be accepted as *urgent business*.
- 21.3 A Councillor may submit the motion in writing to all Councillors prior to the *Council meeting*, outlining the proposed item of *urgent business*.
- 21.4 Unless exceptional circumstances exist and *Council* approves by resolution, only items:
  - 21.4.1 of minimal impact; and



21.4.2 which have arisen since distribution of the *agenda* and cannot safely and conveniently be deferred until the next *Council meeting*

may be raised in *urgent business*.

21.5 The following items are deemed not to be items of minimal impact (and, therefore, unless exceptional circumstances exist and *Council* approves by resolution, cannot be raised in *urgent business*):

21.5.1 the creation or abolition of any office;

21.5.2 the appointment of any person to any office or termination of that appointment;

21.5.3 employment issues;

21.5.4 the sale or lease of any assets;

21.5.5 the declaration of any rate or charge;

21.5.6 the creation, alteration or abolition of any strategy, policy or guideline;

21.5.7 any request for an investigation which will unreasonably or substantially divert staff resources;

21.5.8 any request for a report which will unreasonably or substantially divert staff resources;

21.5.9 the commitment of funds, or in kind contributions, for any purposes which will exceed \$5,000; and

21.5.10 the content, and provision, of any media release.

## **22. Reports of delegates**

22.1 A Councillor or member of *Council* staff who is a *delegate* may present to a *Council meeting* on the deliberations of the external body, association, group or working party in respect of which he or she is a *delegate* or an attendee at a *Council* approved conference / seminar.

22.2 In presenting, the Councillor may for up to three minutes:

22.2.1 address *Council* on the contents of any *written* report which the Councillor has submitted for inclusion in the *agenda*; or

22.2.2 provide a verbal report on any matters otherwise arising out of the deliberations of the external body, association, group or working party.

## DIVISION 4 – MOTIONS AND DEBATE

### 23. Councillors may propose *notices of motion*

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

### 24. *Notice of motion*

24.1 A *notice of motion* must be in writing signed by a Councillor, and be delivered or sent electronically to the *Chief Executive Officer* by no later than noon at least 11 clear days before the *meeting* at which it is intended to be considered.

*If a Council meeting is scheduled for a Monday evening this means that any notice of motion must be lodged prior to noon on the Thursday eleven days prior to the meeting date.*

24.2 A *notice of motion* will not be accepted if it:

24.2.1 relates to a matter in respect of which *Council* has no power to act;

*This does not preclude a notice of motion which calls for Council to advocate or lobby to other levels of government for change.*

24.2.2 declares a rate or charge;

24.2.3 is defamatory, indecent, abusive or objectionable in language or substance;

24.2.4 promotes or is likely to facilitate a threat to public order or safety; or

24.2.5 seeks to substantially affect the level of *Council* services, commit *Council* to significant expenditure not included in the adopted Budget or commit *Council* to any contractual arrangement, without first calling for a formal report to be prepared and presented to *Council* in response to the *notice of motion*.

24.3 The *Chief Executive Officer* may reject any *notice of motion* which is vague or unclear in intention but must:

24.3.1 notify the Councillor who lodged the *notice of motion* of the rejection and reasons for the rejection; and

24.3.2 provide reasonable assistance to the Councillor to help ensure that a *notice of motion*:

- (a) of similar intention; but
  - (b) which is neither vague nor unclear
- is lodged.

- 24.4 The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda* and, where practicable, will be accompanied by comments from a *senior officer* with responsibility for the subject matter or the issue to which the *notice of motion* relates.
- 24.5 The *Chief Executive Officer* must cause all *notices of motion* to be numbered, dated and entered in the *notice of motion* register in the order in which they were received.
- 24.6 Except by leave of *Council*, *notices of motion* before any *meeting* must be considered in the order in which they were entered in the *notice of motion* register.
- 24.7 If a Councillor who has given a *notice of motion* is absent from the *meeting* or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- 24.8 If a *notice of motion* is not moved at the *meeting* at which it is listed, it lapses.
- 24.9 If a *notice of motion* is moved but not seconded, it lapses.
- 24.10 Except where the *notice of motion* is to confirm a previous resolution of *Council*, the *notice of motion* may be amended.
- 24.11 If the Councillor who has lodged or is moving a *notice of motion* wishes to amend it, he or she may do so by seeking leave of *Council* to amend the *notice of motion* prior to it being seconded. A motion must be put to the *meeting* to give approval for the Councillor moving the *notice of motion* to amend it, prior to putting forward the suggested amending words.
- 24.12 Once a *notice of motion* has been moved and seconded, the mover cannot amend it.
- 24.13 Notwithstanding sub-Rule 24.11 another Councillor may move an amendment to the *notice of motion*, which motion must be dealt with in accordance with sub-Rule 26.2.
- 24.14 A Councillor cannot foreshadow an alternate motion to amend another Councillor's *notice of motion*.

## 25. Chair's duty

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

- 25.1 defamatory of or embarrassing to any Councillor, member of *Council* staff or other person;
- 25.2 abusive or objectionable in language or nature;

- 25.3 a direct negative of the question before the *Chair*;
  - 25.4 vague or unclear in intention;
  - 25.5 outside the powers of *Council*; or
  - 25.6 irrelevant to the item of business on the agenda and has not been admitted as *urgent business*, or purports to be an amendment but is not,
- must not be accepted by the *Chair*.

## 26. Introducing a motion or an amendment

- 26.1 The procedure for moving any motion or amendment is:
  - 26.1.1 the mover must state the motion without speaking to it;
  - 26.1.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
  - 26.1.3 if a motion or an amendment is moved and seconded the *Chair* must ask:
    - “Does the mover wish to speak to the motion or amendment?”
  - 26.1.4 after the mover has addressed the *meeting* or been provided with an opportunity to address the *meeting*, the seconder may address the *meeting*;
  - 26.1.5 after the seconder has addressed the *meeting* (or after the mover has addressed the *meeting* if the seconder does not address the *meeting*), the *Chair* must invite debate or contributions by calling on any Councillor who wishes to speak to the motion (including the seconder if he or she has not already spoken to the motion), providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
  - 26.1.6 if, after the mover has addressed the *meeting*, the *Chair* has invited debate or contributions and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.
- 26.2 No discussion on the item being considered may take place until such time as a motion is before the *Chair*. Questions of clarification may be asked of the *Chair* or members of *Council* staff present at the *meeting*.
- 26.3 The *Chair* may only debate a motion by speaking immediately after the mover and seconder of the motion have been given opportunity to speak to the motion.
- 26.4 If the *Chair* wishes to move or second a motion then the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor (if the *Chair* is the *Mayor*) must take the chair

whereupon the *Chair* must vacate the chair and not return to it until the motion has been resolved upon.

**27. Right of reply**

- 27.1 The mover of a motion which has not been amended has a right of reply to matters raised during debate.
- 27.2 After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

**28. Moving an amendment**

- 28.1 Subject to sub-Rule 28.2 a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- 28.2 A motion to confirm a previous resolution of *Council* cannot be amended.
- 28.3 An amendment must not be directly opposite to the motion.
- 28.4 The mover of an amendment cannot exercise any right of reply.

**29. Who may propose and debate an amendment**

- 29.1 An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.
- 29.2 Any one Councillor cannot, without the leave of the *Chair*, move more than two amendments in succession.
- 29.3 Any Councillor can debate an amendment irrespective of whether the Councillor has spoken or proposes to speak to the original motion.
- 29.4 Debate on an amendment must be restricted to the terms of the amendment.

**30. How many amendments may be proposed**

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

### **31. An amendment once carried**

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

### **32. Foreshadowing motions**

- 32.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the *meeting*, but this does not extend any special right to the foreshadowed motion.
- 32.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 32.3 The *Chief Executive Officer* or person taking the minutes of the *meeting* is not required to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- 32.4 A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council meeting*.

### **33. Withdrawal of motions**

Before any motion is put to the vote, it may be withdrawn by the mover and seconder with leave of *Council*, in which case the *Chair* must call for a substitute mover and seconder and, if no such substitute is forthcoming, the motion will lapse.

### **34. Separation of motions**

- 34.1 Where a motion contains more than one part:
  - 34.1.1 *Council* by resolution; or
  - 34.1.2 in the absence of a resolution, the *Chair*  
  
may require the motion to be put to the vote in separate parts.
- 34.2 Debate will not be permitted on any question that a motion in more than one part be put to the vote in separate parts.

### **35. Chair may separate motions or allow motions to be moved in block**

- 35.1 The *Chair* may decide to put any motion to the vote in several parts.
- 35.2 The *Chair* may allow or request a Councillor to move items in block.

### **36. Priority of address**

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

### **37. Motions in writing**

37.1 The *Chair* may require that a long, complex or detailed motion be in writing.

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

### **38. Repeating motion and/or amendment**

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

### **39. Debate must be relevant to the motion**

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

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

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

### **40. Speaking times**

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

40.1.1 the mover of a motion or an amendment: three minutes;

40.1.2 the mover of a motion exercising a right of reply: three minutes; and

40.1.3 any other Councillor: three minutes.

40.2 Only one extension is permitted for each Councillor.

40.3 A motion to extend the speaking time cannot be moved:

40.3.1 until the original speaking time has expired; and

40.3.2 if another speaker has already commenced his or her contribution to the debate,

and must be seconded.

40.4 Any extended speaking time must not exceed three minutes.

#### **41. Addressing the *meeting***

41.1 If the *Chair* so determines:

41.1.1 any person addressing the *Chair* must refer to the *Chair* as:

(a) Madam *Mayor*; or

(b) Mr *Mayor*; or

(c) Madam *Chair*; or

(d) Mr *Chair*

as the case may be;

41.1.2 all Councillors, other than the *Mayor*, must be addressed as Cr\_\_\_\_\_ (name).

41.1.3 all members of *Council* staff, must be addressed as Mr or Ms\_\_\_\_\_ (name) as appropriate or by their official title.

41.2 Except for the *Chair*, any Councillor who addresses a *Council meeting* must direct all remarks through the *Chair*.

#### **42. If lost**

If a *notice of motion* is lost, a similar *notice of motion* cannot be put before *Council* for at least 90 days from the date it was lost unless *Council* resolves that such a *notice of motion* be listed sooner.

#### **43. Right to ask questions**

43.1 A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the *Chair*.

43.2 Any question asked of a member of *Council* staff must not have the effect of:

43.2.1 embarrassing the member of staff; or

43.2.2 drawing the member of staff into the debate.



- 43.3 Any question asked in contravention of sub-Rule 43.2 may be disallowed by the *Chair*.
- 43.4 The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

## **DIVISION 5 – PROCEDURAL MOTIONS**

### **44. Procedural motions**

- 44.1 Unless otherwise prohibited, a procedural motion may be moved at any time during a *Council meeting* and must be dealt with immediately by the *Chair*.
- 44.2 Procedural motions require a seconder.
- 44.3 The mover of a procedural motion must not have moved, seconded or spoken to the question before the *Chair* or any amendment of it.
- 44.4 Notwithstanding any other provision in this Chapter, procedural motions must be dealt with in accordance with the following table:

## PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date and place	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that <i>meeting</i> in accordance with section 85 of the <i>Act</i> ; or (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later <i>meeting</i> if on the agenda	Debate continues unaffected	Yes

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

## DIVISION 6 – RESCISSION MOTIONS

### 45. Notice of rescission

- 45.1 A Councillor who wishes to propose a *notice of rescission* must either:
- 45.1.1 flag their intention to do so during the *Council meeting* at which the resolution proposed to be rescinded was made; or
  - 45.1.2 notify the Mayor and *Chief Executive Officer* of their intention to do so within 24 hours of the conclusion of the *Council meeting* at which the resolution proposed to be rescinded was made.
- 45.2 A Councillor may propose a *notice of rescission* provided:
- 45.2.1 it has been signed and dated by at least four Councillors, including one Councillor who previously supported the resolution proposed to be rescinded;
  - 45.2.2 the resolution proposed to be rescinded has not been acted on; and
  - 45.2.3 the *notice of rescission* is delivered or sent electronically to the *Chief Executive Officer* within three *business days* of the conclusion of the *meeting* at which the resolution was carried, setting out:
    - (a) the resolution to be rescinded; and
    - (b) the *meeting* and date when the resolution was carried.

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

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

*If Council resolves to give Notice of a Decision to Grant a Planning Permit and the Notice is physically issued to the planning permit applicant (or the applicant's agent) or a letter or email is sent to the planning permit applicant (or the applicant's agent) advising of Council's decision, the resolution will have been 'acted on'. Its contents will have been formally communicated to a person whose interests are materially affected so as to vest*

*enforceable rights in the applicant and any objectors wishing to appeal, as well as obligations on Council to comply with its duties under the Planning and Environment Act 1987.*

45.4 The *Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:

45.4.1 has not been acted on; and

45.4.2 is the subject of a notice of rescission which has been delivered or sent electronically to the *Chief Executive Officer* in accordance with sub-Rule 45.2.3.

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

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

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

*Sub-Rule 45.4 would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.*

**46. If lost**

If a *notice of rescission* is lost, a similar motion may not be put before *Council* for at least 90 days from the date it was last lost, unless *Council* resolves that the *notice of rescission* be re-listed at a future *meeting*.

**47. If not moved**

If a *notice of rescission* is not moved at the *meeting* at which it is listed, it lapses and a similar motion may not be put before *Council* for at least 90 days from the date on which it lapsed.

**48. May be moved by any Councillor**

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

**49. When not required**

49.1 Unless sub-Rule 49.2 applies, a *notice of rescission* is not required where *Council* wishes to change policy.

49.2 The following standards apply if Council wishes to change policy:

49.2.1 if the policy has been in force in its original or amended form for less than 12 months, a notice of rescission must be presented to Council; and

49.2.2 any intention to change a Council policy, which may result in a significant impact on any person, should be communicated to those affected and this may include publication and consultation, either formally or informally.

**DIVISION 7 – POINTS OF ORDER**

**50. Valid points of order**

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

50.1 is contrary to this Chapter;

50.2 is irrelevant to the matter under consideration;

50.3 is outside the powers of Council;

50.4 is an error of fact;

50.5 constitutes improper behaviour;

50.6 is offensive;

50.7 constitutes a tedious repetition of something already said; or

50.8 is an act of disorder.

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

**51. Procedure for point of order**

A Councillor raising a point of order must:

- 51.1 state the point of order; and
- 51.2 state any section, Rule, paragraph or provision relevant to the point of order.

**52. Chair to decide**

- 52.1 The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.
- 52.2 In the event a point of order is raised against the *Chair* then the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor (if the *Chair* is the *Mayor*) must take the chair whereupon the *Chair* must vacate the chair and not return to it until the point of order has been resolved upon.
- 52.3 Should repeat points of order be raised during debate by a Councillor, which are ruled against by the *Chair*, the *Chair* may consider the conduct of the Councillor raising unsuccessful points of order disruptive for the purposes of Rule 79 and, in accordance with that Rule, order the removal of such Councillor from the Chamber for a specified period.

**53. No debate**

A Councillor must not debate a point of order or the merits of a point of order, however the *Chair* may request the Councillor to explain the point of order.

**54. Chair may adjourn to consider**

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

**55. Effect of ruling**

If the *Chair*:

55.1 rules in favour of the point of order, the speaker may continue and no Councillor must do or say anything which would cause another like point of order to be raised; or

55.2 rules against the point of order, the speaker may continue.

## 56. Dissent from *Chair's* ruling

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

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

56.2 When a motion in accordance with this Rule is moved and seconded:

56.2.1 the *Chair* must leave the chair and the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor must chair the *meeting*; or

56.2.2 if there is no Deputy Mayor the *Chair* must leave the chair and the chair must be assumed by a temporary Chairperson.

56.3 The Deputy Mayor or the temporary Chairperson must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.

56.4 The Deputy Mayor or the temporary Chairperson must put the motion in the following form:

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

56.5 If the vote is in the negative, the *Chair* resumes the chair and the *meeting* proceeds.

56.6 If the vote is in the affirmative, the *Chair* must then resume the chair, reverse or vary (as the case may be) his or her previous ruling and proceed.

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

## DIVISION 8 – PUBLIC QUESTION TIME

### 57. Question time

57.1 There must be a public question time at every *Council meeting* fixed under Rule 9 to enable members of the public to submit questions to *Council*. Questions may be asked of *Council*, and may not be directed to individual Councillors.

57.2 Public question time will be conducted in accordance with any policy adopted by *Council* from time to time.



*The policy adopted by Council may distinguish between Questions With Notice (that are to be lodged a number of days before the Council meeting, and which must be the subject of a considered response at the meeting) and Questions Without Notice (that can be lodged shortly prior to the Council meeting, and to which a written answer may need to be given in the days following the meeting).*

- 57.3 Questions submitted to *Council* must be:
- 57.3.1 in hard copy or be sent electronically, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and
  - 57.3.2 lodged at *Council's* offices (in the case of a question submitted in hard copy) or sent to *Council* (in the case of a question submitted electronically) by the time specified in any policy adopted by *Council* from time to time.
- 57.4 No person may submit more than three questions at any one *meeting*. A question may be split into a maximum of two parts only. If more than two parts to a question are received, only the first two parts will be considered. Similarly, if more than three questions are received, only the first three questions will be considered. All parts of the question must be relevant to the same subject of enquiry.
- 57.5 The *Chair* or *Chief Executive Officer* must read to those present at the *meeting* a question in its entirety which has been submitted in accordance with this Rule.
- 57.6 Questions that relate to operational matters may be read but answered in writing by the *Chief Executive Officer* outside the *meeting*.
- 57.7 Notwithstanding sub-Rule 57.5, the *Chair* or *Chief Executive Officer* may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- 57.8 A question may be disallowed by the *Chair* or *Chief Executive Officer* without causing it to be read if the *Chair* or *Chief Executive Officer* determines that it:
- 57.8.1 it is the nature of a statement or is so prefaced as to have its emphasis on a statement rather than a genuine enquiry (although, in that event, the *Chair* or *Chief Executive Officer* should, if practicable, read an edited version of the question);
  - 57.8.2 relates to a matter outside the duties, functions and powers of *Council*;
  - 57.8.3 is defamatory, abusive, offensive or objectionable in language or substance;
  - 57.8.4 deals with a subject matter already answered; or

- 57.8.5 is aimed at embarrassing a Councillor or a member of *Council* staff.
- 57.9 If a question is asked and is taken on notice or it is indicated that a written answer to the question will be given, the *Chief Executive Officer* must ensure that:
- 57.9.1 the questioner is asked to provide his or her contact details, unless those details are already known by *Council*;
  - 57.9.2 a written answer to the question is delivered or sent electronically to the questioner within seven days of the *meeting* or any contact details being provided (whichever occurs last); and
  - 57.9.3 the question be recorded in the minutes of the *meeting*, together with a copy of the written response.

## **DIVISION 9 – PETITIONS AND JOINT LETTERS**

### **58. Petitions and joint letters**

- 58.1 Unless *Council* determines to consider it as an item of *Urgent Business*, no motion (other than a motion to receive the same) may be made on any petition or joint letter until the next *Council meeting* after that at which it has been presented.
- 58.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- 58.3 Every Councillor presenting a petition or joint letter to *Council* must confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of any request.
- 58.4 Every petition or joint letter presented to *Council* must be written (other than pencil in a hard copy form), contain the request of the petitioners or signatories and, in the case of a petition, be signed by at least five people.
- 58.5 A petition must include a request on every page, consisting of the following words:  
*“We the undersigned hereby petition Frankston City Council .....*”
- 58.6 Every petition or joint letter must be signed by the persons whose names are included in or appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else, and the address of every petitioner or signatory must be clearly stated.
- 58.7 Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- 58.8 A copy of the text of the petition or joint letter must be included on the agenda for the next available *meeting*.

- 58.9 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.
- 58.10 The only motions that may be moved in relation to petitions set out in the *agenda* are:
- 58.10.1 That the petition be received;
  - 58.10.2 That the petition be received and a report be submitted to a specific *meeting* cycle for consideration;
  - 58.10.3 That the petition be considered at a specific time or in conjunction with a specific item;
  - 58.10.4 That the petition be dealt with in conjunction with another item on the agenda or any other *Council meeting agenda*; and
  - 58.10.5 That the petition be referred to the *Chief Executive Officer* for consideration and response and the response to the petition be submitted to a specific *meeting* cycle for finalisation.
- 58.11 If a petition relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- 58.12 No member of the public is permitted to speak to the petition when presented at a *Council meeting*. Individuals may request to speak to the petition when any report on the item is considered by *Council* at a later *Council meeting*.

## **59. Submissions by incorporated associations**

It will be assumed that a submission which is presented on an incorporated association's letterhead, and which purports to be on behalf of the incorporated association, has, in fact, been appropriately authorised.

## **DIVISION 10 – PUBLIC SUBMISSIONS**

### **60. Individual presentations to *Council meetings***

An individual wishing to present to a *Council* at a *Council meeting* may make a request to the *Chief Executive Officer* or his or her nominee to be registered to speak.

### **61. Requests to present**

- 61.1 A request to present must be received by the *Chief Executive Officer* or any member of *Council* staff nominated by him or her, before a time specified in any policy adopted by *Council* from time to time.

61.2 A person requesting to present must, if asked to do so, specify their name, address and contact telephone number and must, in any event, nominate the item to which he or she wishes to speak.

61.3 Requests received after the time referred to in sub-Rule 61.1 will not be considered by the *Council*.

## **62. When a presentation can be made**

A person may only present to a designated *Council meeting* if he or she:

62.1 proposes to present to an item on the *agenda*; and

62.2 has been registered to speak following a request made under Rule 60.

## **63. Limitations upon speakers**

If *Council* at a *Council meeting* determines to hear from an individual who has been registered to speak, the person addressing the *Council meeting* must comply with any policy relating to presentation adopted by *Council* from time to time.

## **64. Questions but no discussion permitted**

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

## **65. Relaxation of requirement**

Nothing in this Division prevents:

65.1 the Chief Executive Officer determining which *meeting* will consider the request for the individual to be heard;

65.2 arranging for a deputation or individual to meet with a group of Councillors; or

65.3 *Council* from resolving to hear from a deputation or individual at any time.

## **DIVISION 11 – VOTING**

### **66. How motion determined**

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

### **67. Silence**

Voting must take place in silence.

### **68. Recount**

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

### **69. Casting vote**

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

### **70. By show of hands**

Voting on any matter is by show of hands.

### **71. Procedure for a division**

71.1 Immediately after any question is put to a *meeting* and before the next item of business has commenced, a Councillor may call for a division.

71.2 When a division is called for, the vote already taken must be treated as set aside and the division will decide the question, motion or amendment.

71.3 When a division is called for, the *Chair* must:

71.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any member of *Council* staff taking the minutes must record, the names of those Councillors voting in the affirmative;

- 71.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any member of *Council* staff taking the minutes must record, the names of those Councillors voting in the negative; and
- 71.3.3 finally ask each Councillor wishing to abstain from voting to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any member of *Council* staff taking the minutes must record, the names of those Councillors abstaining from voting.

## 72. No discussion once declared

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

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

*For example, Rule 72 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.*

*Equally, Rule 72 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in sub-Rule 7272.2, to discussion about a positive motion were a resolution has just been rescinded.*

## DIVISION 12 – MINUTES

### 73. Confirmation of minutes

- 73.1 At every *Council meeting* the minutes of the preceding *meeting(s)* must be dealt with as follows:
  - 73.1.1 a copy of the draft minutes must be delivered to each Councillor no later than 48 hours after the Mayor has signed the minutes;

- 73.1.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
  - 73.1.3 if a Councillor is dissatisfied with the accuracy of the minutes, he or she must:
    - (a) state the item or items with which he or she is dissatisfied; and
    - (b) propose a motion clearly indicating the alternative language necessary to amend the minutes;
  - 73.1.4 a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the *meeting* at which they have been confirmed; and
  - 73.1.5 the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively.
- 73.2 Unless otherwise resolved or required by law, minutes of a *Delegated Committee* requiring confirmation by *Council* must not be made public until confirmed by *Council*.

#### **74. No debate on confirmation of minutes**

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

#### **75. Deferral of confirmation of minutes**

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

#### **76. Form and availability of minutes**

- 76.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the *meeting* and to take the minutes of such *meeting*) must keep minutes of each *Council meeting*, and those minutes must record:
- 76.1.1 the date, place, time and nature of the *meeting*;
  - 76.1.2 the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - 76.1.3 the names of the members of Council staff present;
  - 76.1.4 any disclosure of a conflict of interest made by a Councillor;

- 76.1.5 arrivals and departures (including temporary departures) of Councillors during the course of the *meeting*;
  - 76.1.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
  - 76.1.7 the vote cast by each Councillor, when the vote was not unanimous or when the vote was taken upon a division;
  - 76.1.8 the vote cast by any Councillor who has requested that his or her vote be recorded in the minutes;
  - 76.1.9 questions asked in Public Question Time and any answer given;
  - 76.1.10 the failure of a quorum;
  - 76.1.11 any adjournment of the *meeting* and the reasons for that adjournment; and
  - 76.1.12 the time at which standing orders were suspended and resumed.
- 76.2 The Chief Executive Officer must ensure that the minutes of any Council *meeting* are:
- 76.2.1 published on Council's website; and
  - 76.2.2 available for inspection at Council's office during normal business hours.
- 76.3 Nothing in sub-Rule 76.2 requires Council or the Chief Executive Officer to make public any minutes relating to a Council *meeting* or part of a Council *meeting* closed to members of the public in accordance with section 66 of the Act.

## **77. Recording of *meetings***

- 77.1 The *Chief Executive Officer* or his/her delegate must record on suitable recording equipment all proceedings of a *Council meeting* except where the *meeting* is closed to the public in accordance with section 66(2) of the *Act*. The copyright in the recordings of the proceedings will vest in *Council*, and permission must be sought to copy, communicate or transmit a recording of the proceedings, or part of a recording of the proceedings.
- 77.2 The proceedings will be live streamed and recordings of the proceedings will be retained and will be published on *Council's* website within 24 hours of the end of the *meeting*.
- 77.3 Members of the public are to be advised that the *meeting* is being recorded and the recording will be made available to members of the public via *Council's* website. Members of the public are to be advised by appropriate signage that while care is



taken to maintain a person's privacy as an attendee in the gallery, they may be recorded.

- 77.4 Subject to sub-Rule 77.1, members of the public must not operate photographic audio or video recording equipment or any other recording device at any *Council meeting* without first obtaining the consent of *Council*. Such consent may at any time during the course of such *meeting* be revoked by *Council*.

*A member of the public who breaches sub-Rule 77.3 may also be breaching other legislation or become civilly liable, such as where the recording unlawfully infringes the privacy, or gives rise to harassment, of another who is present at the meeting.*

- 77.5 All Councillors must have their microphones switched on when speaking at a *Council meeting*.

## DIVISION 13 – BEHAVIOUR

### 78. Public addressing the *meeting*

- 78.1 Members of the public do not have a right to address *Council* and may only do so with the consent of the *Chair* or by prior arrangement.
- 78.2 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.
- 78.3 A member of the public present at a *Council meeting* must not disrupt the *meeting*.

### 79. Chair may remove

- 79.1 The *Chair* may order and cause the removal of any person, including a Councillor, who disrupts any *meeting* or fails to comply with a direction given under sub-Rule 78.2, or cause the removal of any object or material that is deemed by the *Chair* as being objectionable or disrespectful.
- 79.2 Any person removed from the *meeting* under sub-Rule 79.1 must not return to the *meeting* without the approval of the *Chair* or *Council*.

*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 threaten his or her authority in chairing the meeting.*

- 79.3 In the event the *Chair* causes the removal of a Councillor from a *meeting*, the *Chair* must specify the period of time for which the removal will take effect.

**80. Chair may adjourn disorderly meeting**

If the *Chair* is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the *meeting*, he or she may adjourn the *meeting* to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of sub-Rules 16.1 and 16.2 apply.

**81. Removal from Chamber**

The *Chair* or *Council* may ask the *Chief Executive Officer* or *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 *meeting* under Rule 79.

**DIVISION 14 – ADDITIONAL DUTIES OF CHAIR**

**82. The Chair's duties and discretions**

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

- 82.1 may demand retraction of any inappropriate statement or unsubstantiated allegation;
- 82.2 must ensure silence is preserved by all other persons while a Councillor or other speaker is addressing the *meeting*;
- 82.3 must call to order any member of the public who approaches the *Council* or *Committee* table during the *meeting*, unless invited by the *Chair* to do so;
- 82.4 must call to order any person who is disruptive or unruly during any *meeting*; and
- 82.5 must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council *meeting*.

**DIVISION 15 – SUSPENSION OF STANDING ORDERS**

**83. Suspension of standing orders**

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

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

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

83.2 The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:

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

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

83.4 Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:

"That standing orders be resumed."

#### **DIVISION 16 – MISCELLANEOUS**

#### **84. *Meetings conducted remotely***

If:

84.1 by law a *meeting* may be conducted electronically; and

84.2 *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*.

#### **85. *Procedure not provided in this Chapter***

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

#### **86. *Policies and guidelines***

*Council* may adopt any policies or guidelines from time to time for the purpose of exercising any discretion conferred by this Chapter.

## Chapter 3 – Councillor Briefing Arrangements

### 1. Purpose of Chapter

This Chapter describes the nature and procedure for some informal meetings of Councillors.

### 2. Briefings

- 2.1 As part of *Council's* governance arrangements, Councillors may meet regularly at an informal gathering of Councillors known as a "Councillor Briefing" or such other name as *Council* from time to time adopts.
- 2.2 The purpose of such gatherings is for the organisation to provide advice to Councillors on items of a complex nature or of significant community impact. The briefing enables open discussion between the organisation and Councillors and assists both *Council* staff and Councillors develop better understanding of the matter for consideration.
- 2.3 The gatherings are not a decision-making forum.
- 2.4 The gatherings are not open to the public and will generally be held in the Civic Centre or in such other locations as *Council* nominates from time to time.
- 2.5 Rules 77.5, 79, 81 and 82 of Chapter 2 apply to any gathering of Councillors at a scheduled briefing as if any reference to:
  - 2.5.1 the *Chair* is a reference to the Councillor chairing the gathering;
  - 2.5.2 the meeting is a reference to the gathering; and
  - 2.5.3 the Chamber is a reference to the room in which the gathering is being held.
- 2.6 A Councillor who is unable to attend a scheduled briefing must give notice of their apology to the *Chief Executive Officer* as soon as possible but no later than four hours prior to the scheduled briefing commencement time, unless exceptional circumstances exist, so that reasonable notice can be given to other Councillors and Council staff if a briefing is to be cancelled due to insufficient numbers.
- 2.7 The operating meeting protocols and arrangements in relation to these gatherings will be reviewed from time to time and be subject to resolution of *Council*.

## Chapter 4 – Meeting Procedure for Delegated Committees

### 1. Meeting Procedure Generally

If *Council* establishes a *Delegated Committee*:

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

### 2. Meeting Procedure Can Be Varied

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

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

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

## Chapter 5 – Meeting Procedure for Community Asset Committees

### 1. Introduction

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

### 2. Meeting Procedure

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

## Chapter 6 – 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 Chapter 3 and in Rule 1 of Chapter 7 (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.

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

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

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

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

- 4.1 is present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the *Delegated Committee* meeting immediately before the matter is considered; or
- 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 *Committee Asset Committee* meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been disposed of.

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

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

6.1 disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the meeting immediately before the matter is considered;

6.2 absent himself or herself from any discussion of the matter; and

6.3 as soon as practicable after the meeting concludes provide to the *Chief Executive Officer* a written notice recording that the disclosure was made and accurately summarising the explanation given to those present at the meeting.

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

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

7.1.1 *Council meeting*;

7.1.2 *Delegated Committee meeting*;

7.1.3 *Community Asset Committee 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.

## Chapter 7 – Miscellaneous

### 1. Informal Meetings of Councillors

If there is a meeting of Councillors of the kind described in Chapter 3 or a meeting of Councillors that otherwise:

- 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.

## Chapter 8 – Election Period Policy

### 1. Policy statement

Frankston City Council is committed to probity in its elections.

Special statutory restrictions apply during the 32 day period leading up to a general Council election; a Council must avoid actions and decisions that could be seen to influence voters or which would have a significant impact on the incoming Council. These requirements are often referred to as election “caretaker” requirements.

The Local Government Act 1989 (“the Act”) requires a Council to have an election period policy. Section 93B of the Act stipulates that an election period policy must include:

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

### 2. Reason for Policy

This policy has been prepared to satisfy the requirements of section 93B of the Act, and to provide guidance to candidates, Councillors, staff and the community about the particular requirements and expectations that apply during the election period.

### 3. Scope

#### 3.1 *Election period start and finish dates*

This policy applies during the election period which:

- STARTS at midnight at the end of the last day of nominations, being Tuesday 22nd September 2020; and
- FINISHES at 6:00pm on election day, Saturday 24th October 2020.

#### 3.2 *What does this policy cover?*

This policy applies to:

- a. all material published by Council (excluding any document that is required by the Act to be published, for example the annual report);
- b. decisions made by Council, a special committee of the Council, or a delegate of the Council;
- c. the use of Council resources;
- d. public consultation;
- e. the scheduling of Council events and functions;
- f. attendance at and participation in functions and events;
- g. access to Council information;

- h. communication services;
- i. equity in assistance to candidates; and
- j. other matters related to elections.

#### **4. Authorisation**

This policy was adopted by Council at Ordinary Meeting 2019/OM11 on 2 September 2019.

#### **5. Revision date**

This policy will be reviewed and presented to Council by September 2024, or earlier if deemed necessary by Council or the CEO.

#### **6. Principles**

This policy covers the following principles:

- 6.1 Decisions during the election period
- 6.2 Council publications during the election period
- 6.3 Public consultation during the election period
- 6.4 Events and functions during the election period
- 6.5 Preventing misuse of Council resources
- 6.6 Access to Council information
- 6.7 Communication services
- 6.8 Equity in assistance to candidates
- 6.9 Staff member standing for election
- 6.10 Election signage

##### **6.1 Decisions during the election period**

###### ***6.1.1 Who does this part of the policy apply to?***

This section of the Election Period Policy applies to decisions made by the Council or a delegate of the Council.

###### ***6.1.2 What decisions are prohibited during the election period?***

Section 93A of the Act prohibits a Council from making major policy decisions during the election period, unless extraordinary circumstances apply and a Ministerial exemption from the prohibition has been granted.

***Major policy decisions*** include:

- the appointment or dismissal of a Chief Executive Officer, or the remuneration of a Chief Executive Officer;
- approval of contracts with a total value exceeding \$1,222,110 (ie 1% of Council's total revenue from rates and charges levied under s.158 in the 2018/19 financial year); and

- the exercise of any entrepreneurial power under s.193.

### **6.1.3 Preventing inappropriate decisions**

In the interests of good governance, and to preserve the integrity of the election process and the authority of the incoming Council, Council will not make inappropriate decisions during the election period.

**Inappropriate decisions** during the election period are decisions that would affect voting in an election; or may unreasonably bind an incoming council, and could reasonably be made after the election, including:

- approval of contracts that require significant funding in future financial years or are regarded as politically sensitive;
- decisions that have significant impacts on Council's income or expenditure or that relate to expenditure on politically sensitive matters;
- changes to strategic objectives and strategies in the Council Plan;
- policy or strategy decisions;
- allocation of community grants or other direct funding to community organisations;
- major planning scheme amendments; and
- decisions of a politically sensitive nature.

### **6.1.4 Scheduling the consideration of decisions**

The Chief Executive Officer will ensure that any matters that would constitute an inappropriate decision during the election period are either considered by Council prior to the election period, or scheduled for determination by the incoming Council.

No Council meetings will be held during the election period, unless exceptional circumstances require a Council decision (ie. a decision is absolutely necessary for Council operational purposes, or pursuant to a statutory or legal requirement).

In deciding whether exceptional circumstances warrant the consideration of an item by Council during the election period, the Chief Executive Officer will have regard to a number of factors including:

- whether a decision is necessary to enable the continuation of an essential Council service or operation;
- the urgency of the issue (that is, can it wait until after the election?);
- the possibility of financial or other repercussions if the decision is deferred;
- whether a decision is likely to be controversial; and
- whether a decision is in the best interests of the municipality.

### **6.1.5 Council meeting reports and agendas**

If extraordinary circumstances necessitate the consideration of an item by Council during the election period, the Chief Executive Officer will ensure that an “election period statement” is included in the officer’s report.

The following are examples of an “election period statement”:

- a. The recommended decision is not a “major policy decision”, as defined in section 93A of the *Local Government Act 1989*, or an “inappropriate decision” as defined in section 93B (5) of the *Local Government Act 1989*.
- b. The recommended decision is to seek an exemption from the Minister because the circumstances require the making of a “major policy decision” (as defined in section 93A of the *Local Government Act 1989*) during the election period.
- c. The recommended decision is a “major policy decision”, as defined in section 93A of the *Local Government Act 1989*, but an extraordinary circumstances exemption was granted by the Minister for Local Government on [insert date].

### **6.1.6 Announcement of decisions made prior to the election period**

The election period restrictions apply to the actual making of decisions, rather than to the announcement of decisions that have been made prior to the election period. However, as far as practicable such announcements should be made before the commencement of the election period.

## **6.2 Council publications during the election period**

### **6.2.1 Prohibition on publishing materials during election**

It is prohibited under section 55D of the Act for Council 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.

The Act also requires that all Council publications during the election period must be certified in writing by the Chief Executive Officer. An Election Period Certification Procedure has been developed as a related document.

Publications should be read broadly to include all documents that are produced for the purpose of communicating with people in the community, including Council newsletters, advertisements and notices, media releases, leaflets and brochures, emails and mailouts to multiple addresses, electronic information and web based productions including Council’s website, Facebook account and Twitter page.

The controls do not cover advertisements that simply announce the holding of a meeting or about the election process itself.

Electoral matter is any matter that is “intended or likely to affect voting in an election” and this includes (but is not limited to) material that deals with the election, candidates or issues of contention in the election.

Material is definitely electoral matter if it:

- publicises the strengths or weaknesses of a candidate;
- advocates the policies of the Council or of a candidate;
- responds to claims made by a candidate; or
- publicises the achievements of the elected Council.

Councillors may publish campaign material on their own behalf, but cannot purport for that material to be originating from, or authorised by, Council or Frankston City Council i.e. by use of Council logos.

The prohibition does not apply to documents published before the election period, or documents that are published in accordance with a requirement of the Act (eg. the Annual Report, rate notices, food premises registrations, parking fines).

### **6.2.2 Council publications**

Any Council material that is required to be published during the election period will be reviewed by Council’s Governance department, and then (if appropriate) sent to the Chief Executive Officer to be certified in writing in accordance with the Election Period Certification Procedure, prior to publication.

### **6.2.3 Considerations in granting publication approval**

In considering whether to grant approval for the publication of material during the election period, in accordance with the provisions in the Act, the Chief Executive Officer:

- must not permit any materials to be published which include reference to:
  - the election;
  - a candidate in the election;
  - a current Councillor; or
  - an issue before the voters in connection with the election.
- may approve publication of material which only contains information about:
  - the election process itself; or
  - Council services (as long as the material does not include any reference to a current Councillor, an issue before the voters in



connection with the election, or any content that is otherwise precluded by this policy).

#### **6.2.4 Frankston City Council website and social media**

During the election period Council's corporate website will not contain material precluded by this policy. Any references to the election will only relate to the election process. Information about Councillors will be restricted to titles, names and contact details. Other information will be removed for the duration of the election period.

The ability for members of the public to post comments on Council's social media sites will be removed for the duration of the election period.

### **6.3 Public consultation during the election period**

Public consultation is an integral part of Council's policy development, process and operations. However, public consultation undertaken in the lead up to an election has the potential to become an election issue in itself, and can influence voting.

For the purposes of this policy, public consultation means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

It is prohibited under this policy for public consultation (new or ongoing) to be commissioned or undertaken during the election period on an issue that is contentious unless prior approval has been given by the Council or the Chief Executive Officer.

In considering whether to grant approval for public consultation during the election period, the Council or Chief Executive Officer will have regard to a number of factors including:

- whether special circumstances make it necessary for the consultation to occur during the election period;
- the possibility of financial or other repercussions if the consultation is deferred; and
- whether the risks of influencing the election can be mitigated or avoided.

This clause does not apply to public consultation that is required to be undertaken in accordance with section 223 of the Act, or under the Planning and Environment Act 1987. However, consideration will be given to whether such statutory processes can be delayed until after the election period.

#### **6.4 Events and functions during the election period**

The scheduling of Council events and functions during the period leading up to an election can create issues due to a perception that such events and functions have the potential to be used by sitting Councillors for electioneering purposes.

For the purposes of this policy, **events** and **functions** include any gathering of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community. An event or function may take the form of a conference, workshop, forum, Annual General Meeting, launch, promotional activity or a social occasion such as a dinner, reception, ball or similar.

##### **6.4.1 Public events and functions staged by external bodies**

Councillors may continue to attend events and functions staged by external bodies during the election period. However, Council resources cannot be used to facilitate attendance or participation in such events. Any speeches prepared by Council officers for the Mayor or the Mayor's representative for events during the election period will include only basic material, and will not include any content that could be construed as **electoral matter** (see definitions).

##### **6.4.2 Council events and functions**

Where possible, public Council events and functions will be scheduled outside the election period. Council organised events and functions held during the election period will be reduced to only those essential to the operation of the Council. This may be varied by a Council resolution or where the Chief Executive Officer has given prior approval.

In considering whether to grant approval for a Council event or function to be held during the election period, the Council or Chief Executive Officer will have regard to a number of factors including:

- whether special circumstances make it necessary for the event or function to occur during the election period;
- the possibility of financial or other repercussions if the event or function is deferred; and
- whether the risks of influencing the election can be mitigated or avoided.

##### **6.4.3 Accords and community meetings**

Meetings of accords, local area community working groups and committees will not be held during the election period.

## **6.5 Preventing misuse of Council resources**

Council is committed to ensuring that due propriety is observed in the use of all Council resources.

During the election period, additional measures will be implemented to prevent the use of Council resources by candidates for electioneering purposes.

For the purposes of this policy, **Council resources** include Council officers and support staff, hospitality services, vehicles, property, equipment and stationery.

### **6.5.1 Use of Council resources**

Council resources will be used exclusively for normal Council business during the election period, and will not be used in connection with an election campaign. Some specific examples of Council's commitment to this principle are set out below:

- a. The use of resources including bulk paper, photocopying and printing, will be monitored.
- b. Photographs and images taken by or on behalf of Council will not be used for the purposes of electioneering.
- c. Equipment and facilities provided to Councillors for the purpose of conducting normal Council business will not be used for election campaign purposes.
- d. Council email addresses will not be used for election campaign purposes.
- e. Where a Councillor has an existing Council funded service (mobile phone, smart phone, land line or internet connection) and it is impractical to discontinue use of the service during the election period, the Councillor will reimburse Council for any usage of the service during the election period that exceeds normal usage levels.

It is acknowledged that certain improper actions during the election period can have serious consequences; for example, the use of Council resources for private purposes such as electioneering can be a criminal misuse of a Councillors' position, in breach of section 76D of the Act.

### **6.5.2 Council officers**

Council staff should avoid assisting Councillors or candidates in any way that could create a perception that they are being used for electoral purposes.

The Mayor and Councillors' support staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign.

In any circumstances where the use of Council resources might be construed as being related to a candidate's election campaign, advice will be sought from the Chief Executive Officer.

### **6.5.3 Mayor and Councillors' correspondence**

General correspondence addressed to the Mayor and/or Councillors will be answered in accordance with Council's usual administrative procedures.

However, the Mayor and Councillors will sign only the necessary minimum of correspondence during the election period. Correspondence in respect to significant, sensitive or controversial matters will be signed by the Chief Executive Officer. All correspondence will be prepared so as to protect Council staff from perceptions of political bias.

#### **6.5.4 Expenses incurred by Councillors**

Section 75 of the Act provides that Councillors are entitled to be reimbursed for any reasonable out-of-pocket expenses incurred in performing their duties as a Councillor.

A claim for payment or reimbursement of a Councillor's out-of-pocket expenses incurred during the election period should only relate to necessary costs that have been incurred in the performance of normal Council duties. Reimbursement will not be paid for any expenses that are connected with campaigning, or that could be perceived as supporting or being connected with a candidate's election campaign.

In the case where a Councillor's expenses claim covers a combination of Council and election-related business, the Chief Executive Officer may approve a partial reimbursement to cover Council activities.

#### **6.5.5 Council branding and stationery**

Items bearing Frankston City Council's logo, letterhead or other Frankston City Council branding will not be used for, or linked in any way to, a candidate's election campaign.

### **6.6 Access to Council information**

All candidates have equal rights to access public information relevant to their election campaigns from the Council administration. Neither Councillors nor candidates will be provided with information or advice from Council staff that might be perceived to support election campaigns, and there shall be transparency in the provision of all information and advice during the election period.

#### **6.6.1 Councillor briefings**

Councillor briefings are informal gatherings of Councillors at which the Council administration provides advice to Councillors on items of a complex nature or of significant community impact.

Councillor briefings will not be held during the election period, except in relation to urgent matters.

#### **6.6.2 Information and briefing material**

Information and briefing material prepared or secured by staff for a Councillor during the election period must be necessary to the carrying out of the Councillor's role, and must not be related to election issues or to issues that might be perceived to be of an electoral nature.

#### **6.6.3 Candidate information request register**

The Governance team will maintain a register of candidate information requests during the election period. The register will include all requests made by Councillors and candidates for information (including requests that were unable to be met) and the responses given to those requests. The register will be available for public inspection.

#### **6.6.4 Candidate information file sharing site**

To facilitate the secure, swift and efficient sharing of information with candidates, a candidate information file sharing site will be established for use during the election period. Documents that the Council administration has supplied to a candidate will be uploaded to the candidate folder on the FTP site wherever practicable, so that they can be viewed by all candidates. The login credentials will be supplied to candidates as soon as possible after the close of nominations.

### **6.7 Communication services**

Council's communication services are intended to promote Council activities or initiatives and must not be used in any way that might favour a candidate.

#### **6.7.1 Media advice**

Any requests for media advice or assistance from Councillors during the Election Period will be channelled through the Chief Executive Officer or his delegate. No media advice or assistance will be provided in relation to election issues or in regard to publicity that involves specific Councillors.

#### **6.7.2 Media releases and spokespersons**

Media releases during the election period will not refer to specific Councillors. Where it is necessary to identify a spokesperson in relation to an issue the Chief Executive Officer will determine the appropriate person.

### **6.7.3 Publicity campaigns**

During the election period publicity campaigns (other than for the purpose of conducting the election) will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, the Chief Executive Officer or his delegate must approve it. Council publicity during the election period will be restricted to communicating normal Council activities and initiatives.

### **6.7.4 Restriction on 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.

### **6.7.5 Public statements by Council employees**

During the election period no Council employee may make any public statement that relates to an election issue unless the statement has been approved by the Chief Executive Officer.

## **6.8 Equity in assistance to Candidates**

Council affirms that all candidates will be treated equally.

### **6.8.1 Candidate assistance and advice**

Any assistance and advice provided to candidates as part of the conduct of the elections will be offered equally to all candidates.

### **6.8.2 Election process enquiries**

All election process related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the Chief Executive Officer.

## **6.9 Staff member standing for election**

In the event that a member of Council's staff is contemplating standing for election as a Councillor for Frankston City Council, they would need to:

- take leave to stand for election to the office of Councillor (with leave commencing, at the latest, from the time of nominating as a candidate); and

- if elected, resign from the Council staff immediately upon being declared elected.

These requirements are set out in section 29(1)(d) and (3) of the Act.

#### **6.10 Election signage**

The rules which apply to signs that promote candidates in an election, or that relate to election issues, are set out in Council's Election Signs and Events Policy. This document can be accessed on Council's website.

### **7. Roles and responsibilities**

This policy will be managed by the Governance and Information Department.

### **8. Policy non-compliance**

Non-compliance with this policy has the potential to compromise the integrity of the election process and the authority of the incoming Council.

It is acknowledged that certain improper actions during the election period can have serious consequences; for example, the use of Council resources for private purposes such as electioneering can be a criminal misuse of a Councillors' position, in breach of section 76D of the Act.

### **9. Related documents**

- Local Government Act 1989 and in particular:
  - section 55D *Prohibition on Council*;
  - section 76D *Misuse of position*;
  - section 93A *Conduct of Council during election period*;
  - section 93B *Council to adopt an election period policy*.
- Election Period Certification Procedure.
- Register of Candidates' Requests for Information.
- Election Signs and Events Policy.

### **10. Implementation of the Policy**

In accordance with section 93B(4) of the Act, the Chief Executive Officer will ensure that a copy of the election period policy is:

- given to each Councillor as soon as possible after it is adopted; and
- available for inspection by the public at the Civic Centre; and
- published on Council's website.

As soon as possible and no later than 30 days prior to the commencement of the election period, the Chief Executive Officer will ensure that all staff are informed of the requirements of this policy.

## 11. Definitions and notes

Relevant definitions from various sources including some Acts of Parliament have been consolidated below. In this policy:

<b>document</b>	<p>includes, in addition to a document in writing—</p> <ul style="list-style-type: none"> <li>(a) any book, map, plan, graph or drawing;</li> <li>(b) any photograph;</li> <li>(c) any label, marking or other writing which identifies or describes anything of which it forms part, or to which it is attached by any means whatsoever;</li> <li>(d) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;</li> <li>(e) any film (including microfilm), negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and</li> <li>(f) anything whatsoever on which is marked any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them.</li> </ul>
	<i>Interpretation of Legislation Act 1984, s.38</i>
<b>Chief Executive Officer</b>	means the Chief Executive Officer of Council or his/her delegate.
<b>Council resources</b>	include Council officers and support staff, hospitality services, vehicles, property, equipment and stationery.
<b>Councillor briefings</b>	are informal gatherings of Councillors at which the Council administration provides advice to Councillors on items of a complex nature or of significant community impact.
	Part D of the <i>Frankston City Council Governance Local Law .1</i>
<b>election period</b>	in relation to an election, means the period that –



	<p>starts on the last day on which nominations for that election can be received; and ends at 6 p.m. on election day.</p> <p><i>Local Government Act 1989, s.3</i></p>
<b><i>electoral matter</i></b>	<p>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 returning officer for the purposes of conducting an election.</p> <p>Matter is taken to be intended or likely to affect voting in an election if it contains an express or implicit reference to, or comment on –</p> <ul style="list-style-type: none"> <li>- the election; or</li> <li>- a candidate in the election; or</li> <li>- an issue submitted to, or otherwise before, the voters in connection with the election.</li> </ul> <p><i>Local Government Act 1989, s.3 (1A) and (1B)</i></p>
<b><i>event</i></b>	<p>includes a gathering of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community. An event may take the form of a conference, workshop, forum, Annual General Meeting, launch, promotional activity or a social occasion such as a dinner, reception, ball or similar.</p>
<b><i>function</i></b>	<p>includes a gathering of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Council and its community. A function may take the form of a conference, workshop, forum, Annual General Meeting, launch, promotional activity or a social occasion such as a dinner, reception, ball or similar.</p>
<b><i>inappropriate decisions</i></b>	<p>made by a Council during an election period includes decisions that would affect voting in an election; and decisions that could reasonably be made after the election.</p> <p><i>Local Government Act 1989, s.93B(5)</i></p>

<p><b>major policy decision</b></p>	<p>means any decision</p> <p>(a) relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer;</p> <p>(b) to terminate the appointment of a Chief Executive Officer under section 94;</p> <p>(c) to enter into a contract the total value of which exceeds whichever is the greater of—</p> <p>(i) \$100 000 or such higher amount as may be fixed by Order in Council under section 186(1); or</p> <p>(ii) 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year;</p> <p>(d) to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100 000 or 1% of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.</p> <p style="text-align: right;"><i>Local Government Act 1989, s.93A(6)</i></p>
<p><b>public consultation</b></p>	<p>means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.</p>
<p><b>publish</b></p>	<p>means including by publication on the internet.</p> <p style="text-align: right;"><i>Local Government Act 1989, s.3</i></p>
<p>All references to <b>Councillors</b> should be read as including the <b>Mayor</b>.</p>	