



# GOVERNANCE RULES (Revisions 2022)

September 2022

## GOVERNANCE RULES PROPOSED AMENDMENTS 2022

### Introduction

The Council's Governance Rules are a legislative requirement and set the framework for:

- (a) the conduct of Council meetings;
- (b) the conduct of meetings of delegated committees;
- (c) the form and availability of meeting records;
- (d) the election of the Mayor and the Deputy Mayor;
- (e) the appointment of an Acting Mayor;
- (f) an election period policy in accordance with LGAct 2020, section 69;
- (g) the procedures for the disclosure of a conflict of interest by a Councillor or a member of a delegated committee under LGAct 2020 section 130;
- (h) the procedure for the disclosure of a conflict of interest by a Councillor under LGAct 2020 section 131;
- (i) the disclosure of a conflict of interest by a member of Council staff when providing information in respect of a matter within the meaning of LGAct 2020 section 126(1);
- (j) any other matters prescribed by the regulations.

### Background

The *Regulatory Legislation Amendment (Reform) Act 2022* (the Amendment Act), received Royal Assent on 29 March 2022 and includes reforms relating to virtual Council Meetings. From 2 September 2022, Councils will be able to conduct virtual meetings in accordance with their relevant Governance Rules on a permanent basis.

These reforms will be incorporated into Division 2, Part 3 of the *Local Government Act 2020* (LGAct 2020), which relates to the procedures for Council decision making, including the holding of meetings (being Council meetings, joint meetings of Councils, Delegated Committees, and joint Delegated Committee meetings).

### Proposal

Council proposes to amend its Governance Rules to include the following provisions and seeks the community's comments on the proposed changes.

#### **Attendance and Remote (Virtual) Meetings**

The revised template now has detailed provisions concerning:

1. Whether meetings are to be wholly attendance meetings, wholly virtual meetings or partially attendance and partially virtual meetings;
2. how, if a meeting is intended to be a wholly attendance meeting, a Councillor can request that they attend by electronic means; and
3. a decision by Council as to whether it agrees to such a request.

#### **Updated Provisions of Impacting Legislation**

A number of miscellaneous changes have been made, to:

- (a) provide for the acceptance of electronic petitions, joint letters and memorials;
- (b) reflect the repeal of certain provisions in the *Local Government Act 1989*;
- (c) adopt a more gender-neutral language (deletion of his/her and he/she) and
- (d) other minor administrative changes.

From 2 September 2022, these amendments will supersede Part 12 of the LGAct 2020, which currently enables Councils to conduct meetings virtually in response to COVID-19.

The proposed amendments are printed in red for the ease of reading.

## Introduction

### 1. Definitions (page 1)

*attend, attending and in attendance include attend, attending or in attendance by electronic means.*

## Part B – Election of Mayor, Deputy Mayor and Chairs of Delegated Committees

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

### 5. Method of Voting (page 2)

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

## Part C – Meetings Procedure

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

#### 12. Meetings Not Fixed by Council (*Unscheduled or Special Meetings*) (page 4)

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

#### 13. Notice Of Meeting (page 4)

13.2 Notwithstanding sub-Rule 13.1, a notice of meeting need not be delivered or sent electronically to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in *writing* to continue to give notice of any meeting during the period of ~~*their*~~*his or her* absence.

#### 17. Time limits for Meetings (page 5)

17.1 A *Council meeting* must not continue after 9:30pm unless a majority of Councillors *who are in attendance*~~present~~ vote in favour of it continuing.

#### 23. Notice Of Motion (page 6)

23.1 A *notice of motion* must be in *writing* signed by a Councillor, and be lodged with or sent to the *Chief Executive Officer* at least 24 hours before the Agenda is finalised and distributed to allow sufficient time for *the Chief Executive Officer*~~him or her~~ to include the *notice of motion* in agenda papers for a *Council meeting*.

### Division 4 – Motions and Debate

#### 26. Introducing A Motion or an Amendment (page 8)

26.7 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, ~~*providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;*~~ and

#### 32. Foreshadowing Motions (page 9)

32.1 At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of ~~*their*~~*his or her* intention to move a motion at a later stage in the meeting dealing with the same subject matter, but this does not extend any special right to the foreshadowed motion.

**PROCEDURAL MOTIONS TABLE (page 12)**

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and <u>any</u> amendment <del>is</del> 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; <del>or</del> <del>(c) When the matter is one in respect of which a call of the Council has been made for that meeting in accordance with section 85 of the 1989 Act; or</del> (d) When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes
3. 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 <del>their</del> <u>his or her</u> right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

## Division 6 – Rescission Motions

### 47. May Be Moved By Any Councillor (page 14)

A motion for rescission listed on an *agenda* may be moved by any Councillor in attendance~~present~~ but may not be amended.

## Division 7 – Points of Order

### 49. Chair To Decide (page 14)

The *Chair* must decide all points of order by stating the provision, rule, practice or precedent which they consider~~he or she considers~~ applicable to the point raised without entering into any discussion or comment.

### 51. Dissent from *Chair's* Ruling (page 15)

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

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

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

### 52. Procedure For Point Of Order (page 15)

A Councillor raising a point of order must:

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

before resuming their~~his or her~~ seat.

## Division 8 – Public Question Time

### 54. Question Time (page 16)

54.4.2 placed in the receptacle designated~~prescribed~~ for the purpose at the place of the meeting prior to 5pm on the day of the *Council meeting*, or be lodged electronically at the prescribed email address prior to 5pm on the Friday prior to the day of the *Council meeting*.

54.7 the *Chair* or a member of Council staff nominated by the *Chair* may read to those in attendance~~present~~ at the meeting a question which has been submitted in accordance with this Rule.

54.16 A Councillor or the Chief Executive Officer may advise Council that it is their~~his or her~~ opinion that the reply to a question should be given in a meeting closed to members of the public. The Councillor or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless Council resolves to the contrary, the reply to such question must be so given.

## Division 9 – Petitions and Joint Letters

### 55. Petitions and Joint Letters (page 17)

- 55.1 Unless *Council* determines to consider it as an item of urgent business, no motion (other than a motion to receive the same) may be made on any petition, joint letter, memorial or other like application until the next fixed *Council meeting* after that at which it has been presented.
- 55.2 It is incumbent on every Councillor presenting a petition or joint letter to acquaint ~~themselves~~himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language which is disrespectful ~~towards~~to *Council*.
- 55.3 Every Councillor presenting a petition or joint letter to *Council* must:
- 55.3.1 write or otherwise record ~~their~~his or her name at the beginning of the petition or joint letter; and
- 55.3.2 confine ~~themselves~~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 the prayer or request.
- 55.4 Every petition or joint letter presented to *Council* must be in *writing* (other than pencil), ~~typing~~or printing, contain the request of the petitioners or signatories and be signed by at least 12 people.
- 55.7 Every page of a hard copy petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.
- 55.8 Electronic or online petitions, joint letters, memorials or like applications must contain the name and email address of each petitioner or signatory, which details will, for the purposes of this Rule 55, qualify as the address and signature of such petitioner or signatory.

## Division 10 – Voting

### 57. Silence (page 18)

Subject to Rule 60, voting must take place in silence.

### 58. Recount

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

### 59. Casting Vote (page 18)

59.1 The Chair may adjourn a meeting to consider how their casting vote will be cast.

### 60. ~~By Show Of Hands~~ (page 18)

### 60. How Votes Are Cast (page 18)

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

## 61. Procedure For A Division (page 18)

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

61.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise one of ~~their his or her~~ hands or otherwise signify their support in a manner recognised by the Chair. The Chair must then state, and the Chief Executive Officer or any authorised officer must record, the names of those Councillors voting in the affirmative; and

## 62. No Discussion Once Declared (page 19)

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

62.1 a Councillor requesting, before the next item of business is considered, that ~~their his or her~~ opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or

## Division 11 – Minutes

### 63. Confirmation of Minutes (page 19)

63.1 At every *Council meeting* the minutes of the preceding meeting(s) must be dealt with as follows:

63.1.3 if a Councillor indicates opposition to the minutes:

- (a) ~~they he or she~~ must specify the item(s) to which ~~they object he or she objects~~;
- (k) the *Chair* must, after all objections have been dealt with, ultimately ask:

"The question is that the minutes be confirmed" or

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

and ~~then he or she~~ must put the question to the vote accordingly;

### 66. Form and Availability of Minutes (page 21)

66.1 The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:

66.1.2 the names of the Councillors in attendance ~~present~~ and the names of any Councillors who apologised in advance for their non-attendance;

66.1.3 the names of the members of Council staff in attendance ~~present~~;

66.1.7 the vote cast by each Councillor upon a division and any abstention from voting;

66.1.8 the vote cast by any Councillor who has requested that ~~their his or her~~ vote be recorded in the minutes;

## Division 12 – Behaviour

### 67. Public Addressing The Meeting (page 22)

67.3 A member of the public ~~in attendance~~~~present~~ at a *Council meeting* must not disrupt the meeting.

### 68. Chair May Remove (page 22)

The *Chair* may order and cause the removal of any person, other than a Councillor, who disrupts any meeting or fails to comply with a direction given under sub-Rule-67.2.

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

### 69. Chair may adjourn disorderly meeting (page 22)

If the *Chair* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council meeting*, ~~the Chair~~~~he or she~~ may adjourn the meeting to a later time on the same day or to some later day as ~~they think~~~~he or she thinks~~ proper. In that event, the provisions of sub-Rules 16.2 and 16.3 apply.

## Division 15 – Physical and Remote Attendance

### 73. Mode of Attendance (page 23)

73.1 Each notice of meeting must indicate whether the relevant *Council meeting* is to be conducted:

73.1.1 wholly in person;

73.1.2 wholly by electronic means; or

73.1.3 partially in person and partially by electronic means.

73.2 The indication in the notice of meeting must be consistent with any Resolution of *Council* that has expressed a preference for, or otherwise specified, when *Council meetings* are to be conducted:

73.2.1 wholly in person;

73.2.2 wholly by electronic means; or

73.2.3 partially in person and partially by electronic means.

73.3 If a *Council meeting* is to be conducted wholly in person a Councillor may nonetheless request to attend by electronic means.

73.4 Any request made under sub-Rule 73.4 must:

73.4.1 be in writing;

73.4.2 be given to the *Chief Executive Officer* preferably no later than 24 hours prior to the commencement of the relevant *Council meeting*; and

\_\_\_\_\_ specify the reasons why the Councillor is unable or does not wish to attend the *Council meeting* in person.



- 73.5 The Chief Executive Officer must ensure that any request received in accordance with sub-Rule 73.5 and any other request received from a Councillor to attend by electronic means is made known at the commencement of the relevant Council meeting.
- 73.6 Council may approve and must not unreasonably refuse any request.
- 73.7 A Councillor who is attending a Council meeting by electronic means is responsible for ensuring that they are able to access such equipment and are in such an environment that facilitates participation in the Council meeting.
- 73.8 Without detracting from anything said in sub-Rule 73.8, a Councillor who is attending a meeting by electronic means must be able to:
- 73.8.1 hear the proceedings;
  - 73.8.2 see all Councillors and members of Council staff who are also attending the Council meeting, at least while a Councillor or member of Council staff is speaking;
  - 73.8.3 be seen by all Councillors, members of Council staff and members of the public who are physically present at the Council meeting; and
  - 73.8.4 be heard when they speak.
- 73.9 If the conditions of sub-Rule 73.9 cannot be met by one or more Councillors attending a Council meeting, whether because of technical difficulties or otherwise:
- 73.9.1 the Council meeting will nonetheless proceed as long as a quorum is present; and
  - 73.9.2 the relevant Councillor (or Councillors) will be treated as being absent from the Council meeting or that part of the Council meeting
- unless the Council meeting has been adjourned in accordance with these Rules.
- 73.10 Nothing in this Rule 73 prevents a Councillor from joining (or re-joining) a Council meeting at the time that they achieve compliance with sub-Rule 73.9 even if the Council meeting has already commenced or has continued in their absence

## **Miscellaneous**

### **74. Meetings Conducted Remotely (page 24)**

If a Council meeting is conducted:-

74.1 by law a meeting may be conducted electronically; and

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

wholly or partially by electronic means, 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.

### **Division 16 – Miscellaneous (page 24)**

#### **74. ~~Procedure not provided in this Chapter~~**

~~In all cases not specifically provided for by this Chapter, the Chairperson must decide the procedure to be followed based on law or generally accepted meeting protocols.~~

**75. Criticism of members of Council staff (page 25)**

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

75.2 A statement under sub-Rule 0 must be made by the *Chief Executive Officer*, through the *Chair*, as soon as it practicable after the Councillor who made the statement has resumed ~~their~~~~his or her~~ seat.

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

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

## Chapter 5 – Disclosure of Conflicts of Interest

### 1. ~~Introduction~~ (page 28)

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

### 2. Disclosure of a Conflict of Interest at a Council Meeting (page 28)

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

2.1 is ~~in attendance~~ ~~present~~ must disclose that conflict of interest by explaining the nature of the conflict of interest to those ~~in attendance~~ ~~present~~ at the *Council meeting* immediately before the matter is considered ~~and indicating whether it is a general conflict of interest; or a material conflict of interest; or~~

2.2 ~~intend~~ ~~intends~~ to ~~attend~~ ~~be present~~ must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Council meeting* commences a written notice:

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

and then immediately before the matter is considered at the meeting announcing to those ~~in attendance~~ ~~present~~ that ~~they have~~ ~~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.

### 3. Disclosure of Conflict of Interest at a Delegated Committee Meeting (page 29)

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

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

3.2 ~~intend~~ ~~intends~~ to ~~attend~~ ~~present~~ must disclose that conflict of interest by providing to the *Chief Executive Officer* before the *Delegated Committee* meeting commences a written notice:

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

and then immediately before the matter is considered at the meeting announcing to those ~~in attendance~~ ~~present~~ that ~~they have~~ ~~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.

### 4. Disclosure of a Conflict of Interest at a Community Asset Committee Meeting (page 29)

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

4.1 ~~are in attendance~~ ~~is present~~ must disclose that conflict of interest by explaining the nature of the conflict of interest to those ~~in attendance~~ ~~present~~ at the *Community Asset Committee* meeting immediately before the matter is considered ~~and~~

indicating whether it is a general conflict of interest or a material conflict of interest;  
or

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

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

and then immediately before the matter is considered at the meeting announcing to those in attendance~~present~~ that ~~they have~~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.

## 5. Disclosure at a Meeting Conducted Under the Auspices of Council (page 30)

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

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

## 6. Disclosure by Members of Council Staff Preparing Reports for Meetings (page 30)

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

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

## 7. Disclosure of Conflict of Interest by Members of Council Staff in the Exercise of Delegated Power (page 31)

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

## 8. Disclosure by a Member of Council Staff in the Exercise of a Statutory Function (page 31)

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

## Chapter 6 – Miscellaneous

### 2. Confidential Information (page 32)

- 2.1 ~~If, after the repeal of section 77(2)(c) of the Local Government Act 1989, If~~ the *Chief Executive Officer* is of the opinion that information relating to a meeting is confidential information within the meaning of the Act, ~~they~~~~he or she~~ may designate the information as confidential and advise Councillors and/or members of Council staff in writing accordingly.
- 2.3 Nothing in sub-Rule 2.2 will, without more, mean that information designated by the *Chief Executive Officer* under sub-Rule 2.1 satisfies the definition of “confidential information” contained in section 3(1) of the Act.