



FRANKSTON CITY
COUNCIL

Special Meeting

A G E N D A

13 June 2018



COUNCIL CHAMBERS

Dennis Hovenden Chief Executive Officer	Cr Colin Hampton Mayor	Tim Frederico Director Corporate Development
---	----------------------------------	--

Executive Assistant to the Mayor	Council Core Business Support Coordinator	Prue Digby Municipal Monitor
---	--	--

Cr. McCormack

Cr. O'Reilly

Cr. Mayer

Cr. Toms

Cr. O'Connor

Cr. Cunial

Cr Bolam

Cr. Aitken

Guest Speaker

MEDIA

MEDIA

EMT

EMT

Gallery



THE COUNCIL MEETING

Welcome to this Meeting of the Frankston City Council

The Council appreciates residents, ratepayers and other visitors taking their places in the Public Gallery, as attendance demonstrates an interest in your Council and community affairs. Community spirit is encouraged.

This information sheet is designed to help you to understand the procedures of Council and help you to gain maximum value from your attendance.

The law regarding the conduct of Council meetings enables the public to observe the session. However, to ensure the manageability of Council meetings, opportunities for public participation are limited to Question Time and registered submissions in accordance with Council's guidelines, which are available from Council's Councillors Office (call 9768 1632) and on our website, www.frankston.vic.gov.au. It is not possible for any visitor to participate in any Council debate unless specifically requested by the Chairperson to do so.

If you would like to have contact with Councillors or Officers, arrangements can be made for you to do so separately to the meeting. Call Frankston City Council on 9768 1632 and ask for the person you would like to meet with, to arrange a time of mutual convenience.

When are they held?

Generally speaking, the Council meets formally every three (3) weeks on a Monday and meetings start at 7.00 pm, unless advertised otherwise.

Council meeting dates are posted in the Davey Street and Young Street entrances to the Civic Centre (upper level) and also on our website, www.frankston.vic.gov.au.

Governance Local Law No. 1 – Meeting Procedure

34. Chair's Duty

Any motion which is determined by the Chair to be:

- (1) *defamatory of or embarrassing to any Councillor, member of Council staff or other person;*
- (2) *abusive or objectionable in language or nature;*
- (3) *a direct negative of the question before the Chair;*
- (4) *vague or unclear in intention;*
- (5) *outside the powers of Council; or*
- (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.

88. Chair May Remove

- (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, or cause the removal of any object or material that is deemed by the Chair as being objectionable or disrespectful.*
- (2) *Any person removed from the meeting under sub-clause 0 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 threatens his or her authority in chairing the meeting.

The Penalty for an offence under this clause is 2 penalty units which is \$200

Live Streaming of Council Meetings

Frankston City Council will be Live Streaming Council Meetings from Monday 29 January 2018.

Live Streaming allows you to watch and listen to the meeting in real time, giving you greater access to Council decision making and debate and improving openness and transparency.

There are three (3) fixed cameras in the Council Chambers and it is intended that the cameras will only provide vision of the Councillors who are present at the meeting.

Every care will be taken to maintain privacy and as far as practically possible, it is not intended that there be either live or recorded footage of the public or Media personnel, however, there might be incidental capture; for example footage of a person exiting the building depending on which camera is being used at the time, or audio recording of a person who interjects the meeting. Council officers who address Council will be heard on the live audio stream, and audio of them speaking will be recorded.

Archives of meetings will be published on Council's website generally within three (3) business days after the meeting date for the public's future reference. Council will make every reasonable effort to ensure that a live stream and recording is available. However technical difficulties may arise in relation to live streaming or access to Council's website.

Appropriate signage will be placed at the entrance to the meeting location notifying all attendees that the meeting will be streamed live and recorded.

It is not intended that public speakers will be visible in a live stream of a meeting. Cameras are to be positioned so that these members of the public are not visible. If you do not wish to be recorded you will need to contact the Councillors Office on telephone (03) 9768 1632 or via email councillors.office@frankston.vic.gov.au to discuss alternative options prior to the meeting.

The Formal (Ordinary) Meeting Agenda

The Council meeting agenda is available for public inspection immediately after it is prepared, which is normally on the Thursday afternoon four (4) clear days before the meeting. It is available from the Reception desk at the Civic Centre (upper level), on our website www.frankston.vic.gov.au or a copy is also available for you in the chamber before the meeting.

The following information is a summary of the agenda and what each section means:-

- **Items Brought Forward**

These are items for discussion that have been requested to be brought forward by a person, or a group of people, who have a particular item on the Agenda and who are present in the Public Gallery.

- **Presentation of Written Questions from the Gallery**

Question Time forms are available from the Civic Centre and our website, www.frankston.vic.gov.au. Questions may also be submitted online using the Question Time web form. "Questions on notice" are to be submitted and received by Council before 12 noon on the Friday before the relevant Ordinary Meeting.

"Questions without notice" may be submitted in the designated Question Time box in the public gallery on the evening of the meeting, just prior to its commencement. Forms are available in the Council Chamber.

A maximum of 3 questions may be submitted by any one person at one meeting. There is no opportunity to enter into debate from the Gallery.

More detailed information about the procedures for Question Time is available from Council's Councillors Office (call 9768 1632) and on our website, www.frankston.vic.gov.au.

- **Presentation of Petitions and Joint Letters**

These are formal requests to the Council, signed by a number of people and drawing attention to matters of concern to the petitioners and seeking remedial action from the Council. Petitions received by Councillors and presented to a Council meeting are usually noted at the meeting, then a report is prepared for consideration at the next available meeting.

- **Presentation of Reports**

Matters requiring a Council decision are dealt with through officer reports brought before the Council for consideration. When dealing with each item, as with all formal meeting procedures, one Councillor will propose a motion and another Councillor will second the motion before a vote is taken.

- **Presentation of Delegate Reports**

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

- **Urgent Business**

These are matters that Councillors believe require attention and action by Council. Before an item can be discussed, there must be a decision, supported by the majority of Councillors present, for the matter to be admitted as "Urgent Business".

- **Closed Meetings**

Because of the sensitive nature of some matters, such as personnel issues, contractual matters or possible legal action, these matters are dealt with confidentially at the end of the meeting.

- **Opportunity to address Council**

Any person who wishes to address Council must pre-register their intention to speak before 4.00pm on the day of the meeting, by telephoning Council's Councillors Office (call 9768 1632) or by submitting the online web form or by using the application form both available on the website, www.frankston.vic.gov.au.

The submissions process is conducted in accordance with guidelines which are available from Council's Councillors Office and on our website. All submissions will be limited to 3 minutes in duration, except for Section 223 submitters, who have a maximum of 5 minutes. No more than ten (10) members of the public are to be permitted to address the Council. Further speakers will be permitted to address the meeting at the discretion of the Chair. All speakers need to advise if they are speaking on behalf of an organisation and it is deemed that they have been appropriately authorised by that said organisation.

Public submissions and any subsequent discussion will be recorded as part of the meeting, and audio recordings of Council meetings will be made available to members of the public. If a submitter does not wish to be recorded, they must advise the Chair at the commencement of their public submission.

Disclosure of Conflict of Interest

If a Councillor considers that they have, or might reasonably be perceived to have, a direct or indirect interest in a matter before the Council or a special committee of Council, they will declare their interest and clearly state its nature before the matter is considered. This will be done on every occasion that the matter is considered by the Council or special committee.

If a Councillor has an interest in a matter they will comply with the requirements of the Local Government Act, which may require that they do not move or second the motion and that they leave the room in which the meeting is being held during any vote on the matter and not vote on the matter.

If a Councillor does not intend to be at the meeting, he or she will disclose the nature of the interest to the Chief Executive Officer, Mayor or Chairperson prior to the meeting commencing.

Agenda Themes

The Council Agenda is divided into four (4) themes which depict the Council Plan's Strategic Objectives, as follows:

1. A Planned City
2. A Liveable City
3. A Well Governed City
4. A Well Managed City

MAYOR



NOTICE PAPER

ALL COUNCILLORS

NOTICE is hereby given that a Special Meeting of the Council will be held at the Civic Centre, Davey Street, Frankston, on 13 June 2018 at 7.00pm.

COUNCILLOR STATEMENT

All members of this Council pledge to the City of Frankston community to consider every item listed on this evening's agenda:

- *Based on the individual merits of each item;*
- *Without bias or prejudice by maintaining an open mind; and*
- *Disregarding Councillors' personal interests so as to avoid any conflict with our public duty.*

Any Councillor having a conflict of interest in an item will make proper, prior disclosure to the meeting and will not participate in the debate or vote on the issue.

OPENING WITH PRAYER

Almighty God, we ask for your blessing upon this Council. Direct and prosper its deliberations to the advancement of your glory and the true welfare of the people of Frankston City. Amen.

ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

We respectfully acknowledge that we are situated on the traditional land of the Boon Wurrung and Bunurong in this special place now known by its European name, Frankston. We recognise the contribution of all Aboriginal and Torres Strait Islander people to our community in the past, present and into the future.

BUSINESS

1. APOLOGIES

Nil

2. DISCLOSURES OF INTEREST AND DECLARATIONS OF CONFLICT OF INTEREST

3. ITEMS BROUGHT FORWARD

4. CONSIDERATION OF REPORTS OF OFFICERS

4.1 Review of Governance Local Law (Meeting Procedure).....2

4.2 Review of Councillor Code of Conduct.....115

5. LATE REPORTS

Nil

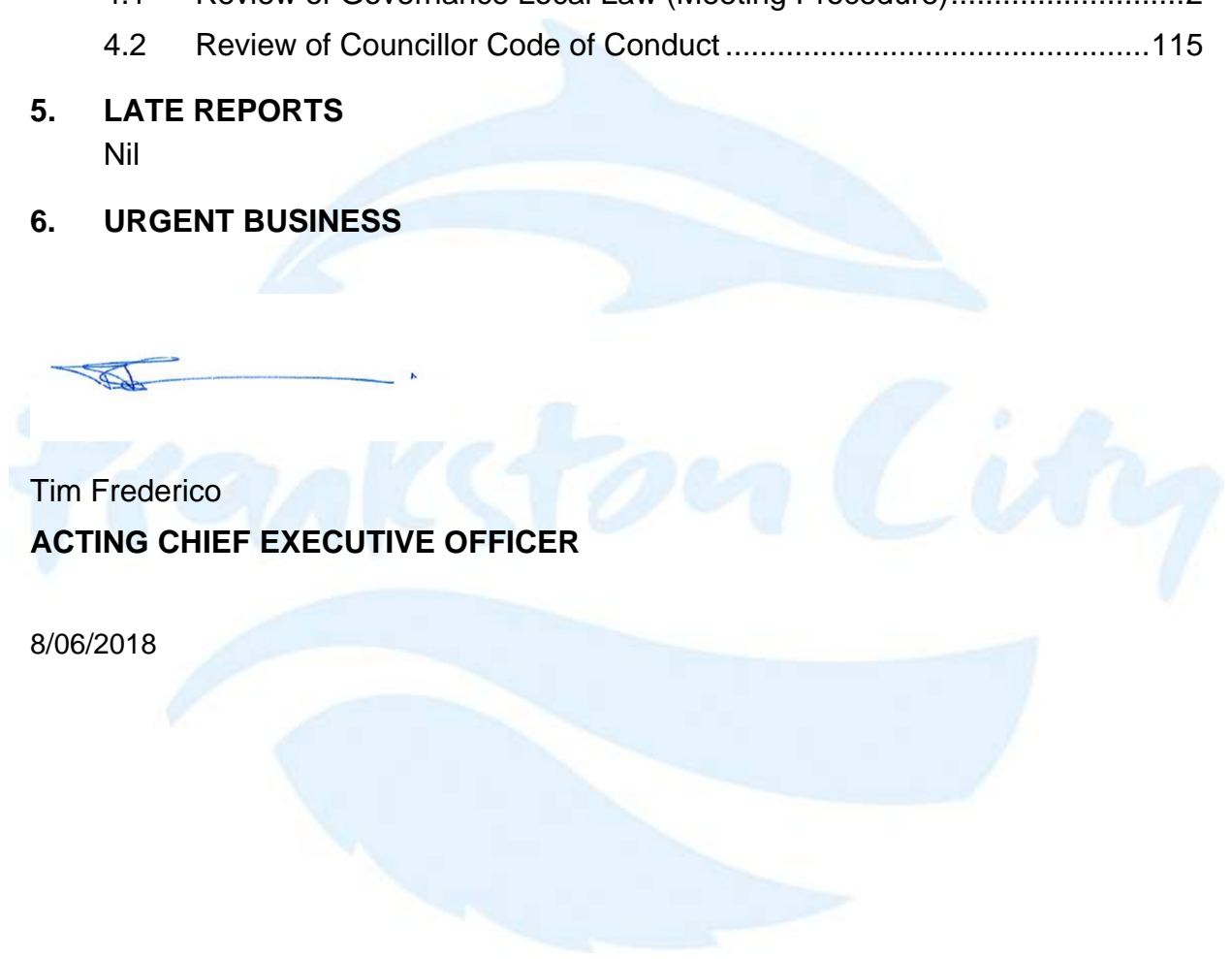
6. URGENT BUSINESS



Tim Frederico

ACTING CHIEF EXECUTIVE OFFICER

8/06/2018



Executive Summary

4.1 Review of Governance Local Law (Meeting Procedure)

Enquiries: (Louise Bugiera: Corporate Development)

Council Plan

Community Outcome:	3. A Well Governed City
Strategy:	3.1 Accountable Governance
Priority Action	3.1.1 The elected representatives will provide clear and unified direction, transparent decision makers and good governance

Purpose

To obtain Council's endorsement of the draft Governance Local Law (Attachment B), in order to commence the statutory process to make a new Local Law.

Recommendation (Director Corporate Development)

That Council:

1. Endorses the draft Governance Local Law (Attachment B), for commencement of the statutory procedure for the making of a new Local Law, with the wording of clause 94(e) regarding the Chair's duties and functions to read as follows:
 - a) must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting (*RECOMMENDED*).
 - OR
 - b) must not demean or denigrate any Councillor, must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting.
 - OR
 - c) must always act with impartiality and fairness, and not be demeaning or denigrate Councillors.
2. Notes that the statutory procedure for making a local law, as set out in section 119 of the Local Government Act 1989, includes the following steps:
 - a) Preparation of a detailed explanatory document ('community impact statement') which reflects the content in the endorsed draft Governance Local Law;
 - b) Giving public notice and notice in the Government Gazette of Council's intention to make a new Governance Local Law, and inviting submissions in accordance with section 223, with the option to be heard at a future Council meeting;
 - c) Ensuring that the draft local law and community impact statement are available for inspection for a minimum of 28 days;
 - d) Receiving and hearing any submissions at a future Council meeting;
 - e) Considering a detailed report at a future Council meeting regarding the outcome of the submissions process, and then determining whether to adopt the proposed new Governance Local Law.

Key Points / Issues

- At OM303 on 17 July 2017 Council formally indicated its desire to progress the review of the Governance Local Law.

4.1 Review of Governance Local Law (Meeting Procedure)**Executive Summary**

- Issues and amendments have been discussed during a series of Councillor briefings over the past 12 months.
- Where a reasonable level of consensus was apparent, input from Councillors has been incorporated into the proposed new Governance Local Law.
- The majority of provisions in the resulting draft document now have general consensus, except for the phrasing of clause 94(e) regarding the Chair's duties and functions.
- There has been some divergence of views on the proposed inclusion of a new duty in clause 94(e) for the Chair to be impartial and fair and to take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting. The three options that have been discussed with Councillors are now presented to Council for a decision.
- [Attachment A](#) is the draft Governance Local Law 2018 highlighting the proposed changes from the current adopted Local Law. [Attachment B](#) is the draft Governance Local Law 2018 without highlights.
- Key changes proposed include:
 - The Mayor's ability to speak to a motion;
 - The Chair's ability to manage disruptive behaviour at Council meetings and briefings;
 - The subject matter and time frames for lodging a notice of motion; and
 - The requirements for a notice of rescission.
- A detailed description of the proposed changes, and a record of additional suggestions which have been received from Councillors but have not been included in the draft, are set out in a table in the Officers Assessment section of this report.
- Should Council endorse the new draft Local Law for public consultation, a detailed community impact statement will be prepared to reflect the agreed content, and then the statutory procedure prescribed in section 119 of the *Local Government Act 1989* ('Act') will commence with the giving of public notice in July. The submissions period will run for a minimum of 28 days and any submissions will be heard, and then a detailed report will be prepared to enable Council to formally consider any matters raised in submissions, and determine whether to adopt the new Local Law. The new Local Law might therefore be in place around the commencement of the November 2018/19 Mayoral term.
- At the time of writing this report the *Local Government Bill 2018* ('Bill') is before Parliament. If the Bill is passed, the requirement for councils to have their meeting procedures set out in a local law will be superseded by a new requirement to adopt a set of Governance Rules (clause 58 of the Bill). Each Council will need to adopt their first set of Governance Rules within six months of the commencement of Division 2 of Part 2 on 1 November 2018. If Council adopts the proposed new Governance Local Law and the Bill is passed as written, the Local Law will have a limited period of operation before it is superseded by new Governance Rules in May 2019.

4.1 Review of Governance Local Law (Meeting Procedure)**Executive Summary****Financial Impact**

The State Government has introduced the “Fair Go Rates” system, placing a cap on Council rates which has restricted the level of increases that Council can apply to its rate revenue. Rate revenue constitutes 63 per cent of all Council revenue.

The rate cap over the past two financial years has been 2.5 per cent and 2.0 per cent respectively and will be 2.25 per cent in 2018-2019.

The rate cap percentages are based on the consumer price index which relates to the average increase in the prices of a range of goods and services, very few of which apply to the cost drivers of providing local government services. The cost of providing Council services has been increasing well in advance of the rate cap applied by State Government.

Over time this trend may lead to a reduction in the levels of service provided to the community and in Councils ability to fund both new facilities and the ongoing renewal of existing facilities.

Council will continue to evaluate the impacts of rate capping annually and needs to be mindful of these outcomes in all Council decisions.

There are no financial implications associated with this report.

Consultation**1. External Stakeholders**

Council’s external solicitors have been consulted about the proposed amendments to the Governance Local Law. The Municipal Monitor and Council’s Audit and Risk Management Committee have also been consulted and provided feedback to the draft document.

Public notice will be given and submissions will be invited after Council resolves to commence the statutory process for making a new local law.

2. Other Stakeholders

Detailed consultation has been undertaken in a series of briefings over the past 12 months to ascertain the views of Councillors regarding the operation of the existing Local Law, and to discuss various suggestions for improvement.

Analysis (Environmental / Economic / Social Implications)

It is good practice for a Council’s Governance Local Law to be reviewed by each Council and revised where necessary, to ensure that the Councillors are comfortable with the rules which govern the operation of the meetings at which Council decisions are made.

Legal / Policy / Council Plan Impact**Charter of Human Rights and Responsibilities**

When reviewing the Governance Local Law, consideration will need to be given to balancing the rights which are protected under the *Charter of Human Rights and Responsibilities Act 2006*, including:

- the right to take part in public life (s.18);
- the right to freedom of expression (s.15);
- the right to freedom of movement (s.12); and

4.1 Review of Governance Local Law (Meeting Procedure)**Executive Summary**

- the right to privacy and reputation (s.13).

Legal

Council's power to make local laws is derived from section 111(1) of the Act. A local law must be consistent with any Act or regulation, and will be inoperative to the extent of any inconsistency (s. 111(2) & (3)).

Section 119 of the Act prescribes the statutory process for making a local law. The process includes inviting and considering public submissions in accordance with section 223 of the Act.

Division 2 of the Act also sets out various requirements in relation to Council meetings, and a local law which deals with Council meetings must be consistent with these provisions.

It is noted that the *Local Government Bill 2018*, if passed, will change the arrangements regarding councils' governance (meeting procedure) local laws. Clause 58 of the Bill provides that councils must develop Governance Rules which deal with various matters including the conduct of meetings of the council, the form and availability of meeting records and the election of the Mayor and the Deputy Mayor. If the Bill is passed, Council will need to adopt a set of Governance Rules by May 2019.

Policy Impacts

Not applicable.

Officer's Declaration of Interests

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Risk Mitigation

A clear and considered Governance Local Law contributes to Council's ability to make good decisions.

Conclusion

Councillors have provided input to the proposed new Local Law at a series of Councillor Briefings. The document has also been reviewed by Council's external lawyers, the Municipal Monitor and by Council's Audit and Risk Management Committee. The proposed new Local Law is now presented for formal consideration by Council, to determine whether any further changes are required before the document is put out for public consultation. If Council resolves to endorse the attached draft, the public consultation phase of the statutory local law making procedure can be commenced.

ATTACHMENTS

Attachment A: [↓](#) Marked up draft Governance Local Law

Attachment B: [↓](#) Clean draft Governance Local Law

4.1 Review of Governance Local Law (Meeting Procedure) Officers' Assessment

Background

- The Governance Local Law sets out the rules which govern the operation of the meetings at which Council decisions are made. Council's existing Governance Local Law commenced operation on 17 April 2015 and will end on 17 April 2025 unless revoked sooner.
- This Council has worked under the existing Governance Local Law for some time now, and Councillors have had a reasonable opportunity to identify issues and potential improvements.

Issues and Discussion

The changes in the draft are described in the table below:

Clause	Description of change
2	Expanded description of the Local Law's purpose.
2(1)	Clause 2 is titled 'Purpose of this Local Law', but the second sentence in subclause (1) refers to process for amending the Local Law. This content has been moved to clause 7, which is titled 'Review of Local Law'.
7	New requirement for the Local Law to be formally reviewed at least once every four years.
7	Defined terms have been italicised (' <i>Council meetings</i> ' and ' <i>Council.</i> ')
10	New provision to allow each mayoral candidate to speak to their nomination.
11	The option to elect a Deputy Mayor has been made a requirement, and the role of the Deputy Mayor has been described.
14(5)	Extended application of the Chair's ability to manage disruptive behaviour at Councillor briefings.
14(5)	Words have been added to narrow the application of the provisions allowing the Chair to manage behaviour to any gathering ' <i>of Councillors at a Councillor briefing</i> ' rather than just to 'any gathering', to avoid unintended application of the provisions. Following an amendment to narrow the operation of the requirement for Councillors to use microphones, a cross-reference to clause 87(5) has been added to reflect the intention of Councillors that microphones must be used in Council meetings and at formal Councillor briefings.
14(6)	New requirement for Councillors to give at least four hours' notice to the CEO of their inability to attend a scheduled briefing.
14(6)	Reference to 'Council officers' changed to ' <i>Council staff</i> '.
15	Reduced ability to reschedule or cancel an ordinary meeting, and new requirement to provide a reason for and reasonable notice of the change to the public.
18	New explanatory note regarding the requirements for giving notice of a special meeting.
19(1)	Responsibility for determining the agenda for an ordinary meeting has been amended to specifically include the Mayor, and a requirement to take into account the views of Councillors.
19(2)	New requirement for Council to vote on the proposed inclusion into the agenda of any late reports.

4.1 Review of Governance Local Law (Meeting Procedure)

Officers' Assessment

Clause	Description of change
27	New Ordinary meeting "Order of Business" items: Councillor statements and Late reports.
32	New provision allowing Councillors to make a two minute statement regarding a matter not listed on the agenda. (Revised wording proposed by staff and agreed by Cr Bolam)
34(1)	Changed deadline for lodging a notice of motion.
34(2)	Prohibition of certain types of notices of motion.
34(2)	Defined terms have been italicised (' <i>Notice of motion</i> ' and ' <i>Council</i> ').
34(4)	Minor revision of wording.
34(14)	Prohibition on foreshadowing an alternate motion to amend another Councillor's notice of motion, as this would subvert the normal notice of motion process.
36(3)	Amendment of Chair's ability to debate a motion.
55	Changed requirements for a notice of rescission.
62(2)	New provision for determination of a point of order against the Chair.
62(3)	New provision to enable Chair to remove a Councillor for making repeated unsuccessful points of order.
63	New ability for Chair to request Councillor to explain a point of order.
67	Clarification of question time arrangements.
87(1),(2) & (3)	Amendment of provision to suit forthcoming web streaming of audio visual recordings of Council meetings. Application to Special Committee has been removed from sub-clause (1) because the Frankston Arts Board does not have the facilities to enable recordings to be made. Addition of sub-clause (5)
87(5)	New requirement for Councillors to use microphones.
87(5)	Clarify that the requirement to use microphones only applies to Council meetings – this change necessitated the addition of this clause to clause 14(5) so that microphones must also be used in Councillor briefings.
90(3)	New requirement for Chair to specify the period of time for removal of a Councillor.
94(e)	New duty/discretion for Chair to ensure no Councillor is demeaned or denigrated during a meeting. As there is still some disagreement between Councillors regarding the wording of this proposed new provision, two versions have been included to facilitate Council's decision on this clause.

- Some further requests have been made by individual Councillors, but it is not clear whether these requests are supported by a majority of Councillors so they have not been included in the draft. Instead, these requests are set out in the separate table below, and Council may resolve to incorporate any of them into the draft Local Law:

Clause	Description of request
32	Addition of a requirement for Councillor statements to be vetted by Council officers prior to a meeting to ensure legal / probity compliance.
34(14)	Clarification of draft clause 34 (14) which states "A Councillor cannot foreshadow an alternate motion to amend another Councillor's notice of motion."

4.1 Review of Governance Local Law (Meeting Procedure)

Officers' Assessment

Clause	Description of request
53	<p>Addition of a requirement for the Chair to ensure that a response to a question through the Chair is a complete answer to the question that was asked.</p> <p>It is not clear whether a majority of Councillors support this proposal.</p> <p>Determining the “completeness” of a response is somewhat subjective – perhaps it could be included as an ability, rather than an obligation or duty.</p> <p>If this is to be added, it could be included as an additional sub-clause under clause 53 (“Right to ask questions”).</p>
62	<p>Addition of a requirement for the Chair to hear what a point of order is, before ruling against it.</p> <p>It is not clear whether a majority of Councillors support this proposal.</p> <p>This might increase the potential for misuse of the point of order process, and diminish the Chair’s power to manage this. However, a new subclause (1) could be added at the beginning of clause 62 (“Chair to decide”) to state “The Chair must allow the Councillor to state the point of order and any relevant section, clause, paragraph or provision.”</p>
67	<p>Amendment or removal of the “questions without notice” process.</p> <p>It is not clear how many Councillors wish to retain the ability for members of the public to ask questions without notice. The Local Law does not actually stipulate that questions without notice must be allowed – in fact, the only reference to questions without notice in the Local Law is in the explanatory note under clause 66 in the current adopted version (clause 67 in the proposed draft) which states “The policy adopted by Council may distinguish between Questions With Notice (that are to be lodged a number of days before the Ordinary 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 Ordinary meeting, and to which a written answer may need to be given in the days following the meeting).</p> <p>The arrangements for questions without notice are set out in the Policy, which can be amended at any time by Council decision.</p> <p>Councillors discussed moving the deadline for submission of questions without notice to 6:30pm (instead of 7:00pm) but this would undermine the process as the public don’t have access to the Chamber until 6:40pm.</p>
68	<p>Addition of a requirement for petitions to be vetted by Council officers prior to a meeting to ensure legal / probity compliance.</p>
87 or 91	<p>Making it an offence in the Local Law for a person to capture stills of the footage of a council meeting, or to use the footage without consent.</p> <p>Legal advice indicates that there would be problems with the inclusion of such a provision.</p>



Marked up draft

Frankston City Council

Local Law No. 1

Governance Local Law

Proposed changes from the current adopted version of the Governance Local Law 2015 appear in coloured font throughout this draft as follows:

- ~~Blue strikethrough font~~ – deletions
- Red font – additions.

Contents

PART A – INTRODUCTION	1
1. Title	1
2. Purpose of this Local Law	1
3. Authorising provision	1
4. Commencement and end dates	2
5. Revocation of Local Law No. 1 of 2015	2
6. Definitions and notes	2
7. Review of Local Law	3
PART B – ELECTION OF MAYOR	4
8. Election of the <i>Mayor</i>	4
9. Method of voting	4
10. Determining the election of the <i>Mayor</i>	4
11. Election of Deputy Mayor and <i>Chairs</i>	6
12. Identity of temporary <i>Chairs</i>	6
PART C – COUNCIL’S COMMON SEAL	6
13. <i>Council’s</i> common seal	6
PART D – COUNCILLOR BRIEFING ARRANGEMENTS	7
14. Councillor briefing arrangements	7
PART E – MEETINGS PROCEDURE	8
DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS	8
15. Dates and times of meetings	8
16. Council / Committee meeting location	8
17. Special meetings	9
18. Notice of meeting	9
19. Agenda	11
DIVISION 2 – QUORUMS	11
20. Ordinary meetings	11
21. Special meetings	11
22. Inability to obtain a quorum	12
23. Inability to maintain a quorum	12
24. Inability to achieve or maintain a quorum due to conflicts of interest of Councillors	12
25. Adjourned meetings	12
26. Time limits for meetings	12
DIVISION 3 – BUSINESS OF MEETINGS	13
27. The order of business	13
28. Change to order of business	14
29. Conflicts of interest	14
30. Urgent business	14
31. Reports of delegates	15
32. Councillor statements	16
DIVISION 4 – MOTIONS AND DEBATE	16
33. Councillors may propose <i>notices of motion</i>	16

34.	<i>Notice of motion</i>	16
35.	Chair's duty.....	18
36.	Introducing a motion or an amendment	18
37.	Right of reply.....	19
38.	Moving an amendment	20
39.	Who may propose and debate an amendment.....	20
40.	How many amendments may be proposed	20
41.	An amendment once carried	20
42.	Foreshadowing motions	21
43.	Withdrawal of motions.....	21
44.	Separation of motions	21
45.	<i>Chair</i> may separate motions or allow motions to be moved in block.....	21
46.	Priority of address	22
47.	Motions in writing	22
48.	Repeating motion and/or amendment.....	22
49.	Debate must be relevant to the motion	22
50.	Speaking times.....	22
51.	Addressing the meeting	23
52.	If lost.....	23
53.	Right to ask questions.....	23
DIVISION 5 – PROCEDURAL MOTIONS		24
54.	Procedural motions.....	24
DIVISION 6 – RESCISSION MOTIONS		27
55.	Notice of rescission	27
56.	If lost.....	28
57.	If not moved.....	28
58.	May be moved by any Councillor.....	29
59.	When not required.....	29
DIVISION 7 – POINTS OF ORDER.....		29
60.	Valid points of order	29
61.	Procedure for point of order	29
62.	<i>Chair</i> to decide.....	30
63.	No debate.....	30
64.	<i>Chair</i> may adjourn to consider	30
65.	Effect of ruling.....	30
66.	Dissent from <i>Chair's</i> ruling.....	31
DIVISION 8 – PUBLIC QUESTION TIME		31
67.	Question time	31
DIVISION 9 – PETITIONS AND JOINT LETTERS.....		33
68.	Petitions and joint letters.....	33
69.	Submissions by incorporated associations	34
DIVISION 10 – PUBLIC SUBMISSIONS		35
70.	Individual presentations to <i>Special Committee</i> meetings and <i>Ordinary Meetings</i>	35
71.	Requests to present	35
72.	When a presentation can be made	35
73.	Limitations upon speakers	35

74.	Questions but no discussion permitted	35
75.	Individual presentation to section 223 <i>Special Committee</i>	36
76.	Relaxation of requirement	36
DIVISION 11 – VOTING		37
77.	How motion determined.....	37
78.	Silence	37
79.	Recount.....	37
80.	Casting vote.....	37
81.	By show of hands.....	37
82.	Procedure for a division	37
83.	No discussion once declared	38
DIVISION 12 – MINUTES.....		39
84.	Confirmation of minutes	39
85.	No debate on confirmation of minutes	40
86.	Deferral of confirmation of minutes.....	41
87.	Recording of meetings.....	41
DIVISION 13 – BEHAVIOUR		41
88.	Display of placards and posters.....	41
89.	Public addressing the meeting	42
90.	<i>Chair</i> may remove	42
91.	Offences.....	42
92.	<i>Chair</i> may adjourn disorderly meeting.....	44
93.	Removal from Chamber	44
DIVISION 14 – ADDITIONAL DUTIES OF <i>CHAIR</i>		45
94.	The <i>Chair’s</i> duties and discretions	45
DIVISION 15 – SUSPENSION OF STANDING ORDERS.....		45
95.	Suspension of standing orders	45
DIVISION 16 – MISCELLANEOUS		46
96.	Procedure not provided in Local Law	46
97.	Policies and guidelines.....	46
DIVISION 17 – SPECIAL AND ADVISORY COMMITTEES		46
98.	Application to <i>Special Committees</i> generally	46
99.	Application to <i>Special Committees</i> specifically	46
100.	Application to <i>Advisory Committees</i> generally	47
101.	Application to <i>Advisory Committees</i> specifically	47
102.	Adoption of recommendation	47
Schedule 1.....		49

PART A – INTRODUCTION

1. Title

This Local Law will be known as the "Governance Local Law".

2. Purpose of this Local Law

- (1) The purpose of this Local Law is to **provide for the orderly, efficient and equitable conduct of meetings of Council and Special Committees.**
 - (2) **Specifically, this Local Law is to:**
 - (a) 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;
 - (b) promote and encourage community participation in the system of local government by providing mechanisms for *Council* to ascertain the community's views and expectations;
 - (c) provide for the election of the *Mayor*;
 - (d) regulate the use of the *common seal*;
 - (e) prohibit unauthorised use of the *common seal* or any device resembling the *common seal*;
 - (f) provide for the procedures governing the conduct of *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings, **to facilitate their orderly, efficient and equitable operation;**
 - (g) set the rules of behaviour for those participating in or present at *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings; and
 - (h) provide for the role of the *Mayor* and any Deputy Mayor.
-

3. Authorising provision

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4. **Commencement and end dates**

This Local Law:

- (a) commences on the day following the day on which notice of the making of this Local Law is published in the *Victoria Government Gazette*, and operates throughout the *municipal district*; and
- (b) ends on the 10th anniversary of the day on which it commenced operation.

5. **Revocation of Local Law No. 1 of 2009 2015**

On the commencement of this Local Law, Council's ~~General (Amendment) Local Law No. 1 of 2009~~ Governance Local Law No. 1 of 2015 is revoked.

6. **Definitions and notes**

- (1) In this Local Law:

"**Act**" means the Local Government Act 1989;

"**Advisory Committee**" means an advisory committee established by *Council* under section 86(1) of the *Act*;

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

"**authorised officer**" means a member of Council staff who is authorised by *Council* to carry out specific functions under this Local Law;

"**business day**" means a period between 8.30am and 5.00pm on a day which is not a Saturday, Sunday or public holiday;

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

"**Chief Executive Officer**" means the Chief Executive Officer of *Council*;

"**common seal**" means the common seal of *Council*;

"**Council**" means Frankston City Council;

"**Council meeting**" includes a meeting at which the *Mayor* is elected, an *Ordinary meeting* and a *Special meeting*;

"**delegate**" means a Councillor or member of *Council* staff who, by virtue of a resolution, is *Council's* delegate, nominee or appointee to an external body, association, group or working party;

"**Mayor**" means the Mayor of *Council*;

"**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*;

"**offence**" means an act or default contrary to this Local Law;

"**Ordinary meeting**" means any meeting of *Council* which is not a *Special meeting*;

"**penalty units**" mean penalty units as prescribed in the *Sentencing Act 1992*;

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

"**Special Committee**" means a special committee established by *Council* under section 86(1) of the *Act*;

"**Special meeting**" means a Special meeting of *Council* convened and held in accordance with section 84, 84A or 85 of the *Act*;

"**urgent business**" means business which is raised under clause 30;

"**visitor**" means any person (other than a Councillor, member of a *Special Committee*, or member of Council staff) who is in attendance at a *Council meeting* or a *Special Committee* meeting; and

"**written**" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form.

- (2) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

7. Review of Local Law

To ensure the appropriate functioning of *Council meetings* this Local Law will be formally reviewed every four years before the public, or sooner if *Council* determines that a review is required by any particular circumstance.

This Local Law can be amended from time to time in accordance with the statutory procedure for making a local law, to best suit Council's circumstances.

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.

8. Election of the *Mayor*

- (1) A meeting to elect the *Mayor* must be held:
 - (a) as soon as practicable after the declaration of the results of a general election of Councillors;
 - (b) as soon as practicable after the fourth Saturday in October, in years between general elections of Councillors; and
 - (c) as soon as practicable after the office of *Mayor* otherwise becomes vacant.
- (2) A temporary *Chair* must be elected to facilitate the election of the *Mayor* in accordance with the provisions of this Local Law and the *Act*.

9. Method of voting

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

10. Determining the election of the *Mayor*

- (1) The temporary *Chair* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- (2) Any nomination for the office of *Mayor* must be seconded.
- (3) Once nominations for the office of *Mayor* have been received and those nominated have accepted their nomination, the following provisions will govern the election of the *Mayor*:
 - (a) if there is only one nomination, the candidate nominated is deemed to be elected;
 - (b) 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;

- (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- (d) in the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- (e) 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 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;
- (f) in the event of two or more candidates having an equality of votes and one of them having to be declared:
 - (i) a defeated candidate; and
 - (i) duly electedthe declaration will be determined by lot.
- (g) if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
 - (i) each candidate will draw one lot;
 - (ii) 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
 - (iii) 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).

11. Election of Deputy Mayor and *Chairs*

- (1) At a meeting to elect the *Mayor*, *Council* will, immediately after the election of the *Mayor*, elect a *Deputy Mayor*.
- (2) Any election for:
 - (a) the office of Deputy Mayor; or
 - (b) temporary *Chair*, in cases where a temporary *Chair* needs to be elected under clause 12will be regulated by clauses 8-10 (inclusive) of this Local Law, as if, in the case of any election for Deputy Mayor, the reference to the:
 - (c) temporary *Chair* is a reference to the *Mayor*; and
 - (d) *Mayor* is a reference to the Deputy Mayor.
- (3) 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.

12. Identity of temporary *Chairs*

If:

- (1) the *Mayor* and any Deputy Mayor are absent from a *Council meeting*;
 - (2) it is a meeting to elect the *Mayor*; or
 - (3) for any other reason a temporary *Chair* is required,
- the Councillor who most recently served as *Mayor* will be the temporary *Chair* or, if no such Councillor is present, a Councillor who is elected by the meeting to be temporary *Chair* will become the temporary *Chair*.

PART C – COUNCIL’S COMMON SEAL

Introduction: The *common seal* is a device which formally and solemnly records the collective will of *Council*. The provisions in this Part are designed to protect the integrity of the *common seal*, and describe when it may be affixed to a document.

13. Council’s common seal

- (1) The *Chief Executive Officer* must ensure the security of the *common seal* at all times.

- (2) The affixing of the *common seal* to any document must be attested to by not less than two persons, comprising both:
 - (a) one Councillor and the *Chief Executive Officer*; or
 - (b) in the absence of the *Chief Executive Officer*, one Councillor and a member of Council staff authorised to perform this function by the *Chief Executive Officer*.
- (3) Where *Council* authorises the *common seal* to be affixed to any document, the *Chief Executive Officer* must:
 - (a) cause the sealed document to be allocated a seal register number; and
 - (b) ensure that a description of the document sealed is entered into the seal register.

PART D – COUNCILLOR BRIEFING ARRANGEMENTS

Introduction: This Part describes the nature and procedure for some informal meetings of Councillors.

Councillors meet on a number of occasions monthly at "Councillor Briefings". These are "Assemblies of Councillors" within the meeting of the *Act*.

This Part provides for these informal meetings, and explains why and how they are held.

14. Councillor briefing arrangements

- (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) 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.
- (3) The gatherings are not a decision-making forum.
- (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.
- (5) **Clauses 87(5), 90, 91(1)(c) and (d), 93 and 94 apply to any gathering of Councillors at a scheduled briefing as if any reference to:**

- (a) the *Chair* is a reference to the Councillor chairing the gathering;
 - (b) the meeting is a reference to the gathering; and
 - (c) the Chamber is a reference to the room in which the gathering is being held.
- (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.
- (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*.

PART E – 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

15. Dates and times of meetings

- (1) The dates, times and places of meetings are within the discretion of *Council*.
- (2) *Council* will, by resolution at the meeting at which the *Mayor* is to be elected, determine the day and time upon which any *Ordinary meetings* will be held and may by further resolution alter any such dates, times or places.
- (3) An *Ordinary meeting* may only be rescheduled or cancelled by a resolution of *Council*. *Council* must provide a reason for and reasonable notice of the change to the public.

16. Council / Committee meeting location

- (1) *Ordinary meetings* and *Special Committee* meetings will be held in the Council Chambers, or any building within the Civic Centre Precinct as determined by the *Mayor*, or another location outside the Civic Centre

Precinct by resolution of *Council* or the *Special Committee* (as the case may be).

- (2) *Special meetings* may be held at the Council Chambers or elsewhere in the Civic Centre as determined by the *Mayor*.

17. Special meetings

- (1) The *Mayor* or at least three Councillors may by a written notice call a *Special meeting*.
- (2) The notice must:
 - (a) specify the date and time of the *Special meeting* and the business to be transacted; and
 - (b) be delivered or sent electronically to the *Chief Executive Officer* in sufficient time to enable reasonable notice of the *Special meeting* to be given to all Councillors.
- (3) The *Chief Executive Officer* must convene the *Special meeting* as specified in the notice.
- (4) Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the notice is to be transacted.
- (5) Subject to any resolution providing otherwise, the order of business of any *Special meeting* must be the order in which such business stands in the *agenda* for the meeting.

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

Apart from this, the only other type of Special meeting that can be convened is a "Call of the Council". This is provided for in section 85 of the Act. It is generally reserved for occasions on which all Councillors are required to attend and remain throughout a Council meeting lest Council be deprived of a quorum and be unable to transact an item of business which has, in the past, not been transacted because of some Councillors absenting themselves from the Chamber and preventing proper consideration of the matter.

18. Notice of meeting

- (1) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically (at the

option of the Councillor) to every Councillor for all *Ordinary meetings* 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.

- (2) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for any *Special meeting* within a reasonable time of the *Special meeting* being called. Generally, this means that a notice of meeting must be delivered to every Councillor at least 48 hours before the meeting. A period less than 48 hours may, however, be justified if exceptional circumstances exist.
- (3) Notwithstanding sub-clauses (1) and (2):
- (a) a draft *agenda* for each *Ordinary 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
 - (b) 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.
- (4) Reasonable notice of each *Ordinary meeting* and *Special meeting* must be provided to the public. *Council* may do this:
- (a) for *Ordinary meetings* by preparing a schedule of meetings annually, 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 *Ordinary meeting*; and
 - (b) for any meeting by giving notice:
 - (i) in at least one local newspaper or daily metropolitan newspaper;
 - (ii) on its website; andunless time does not allow this to occur in a newspaper, in which case the posting of a notice setting out the details must be displayed on Council's website and the entrance of the Council Chambers and Civic Centre.

Section 89(4) of the Local Government Act 1989 requires at least seven

days' notice of a council meeting to be given to the public. Subsection (4A) requires 'urgent or extraordinary circumstances' to exist and be recorded in the minutes where less than seven days' notice of a meeting has been given.

- (5) Copies of the *agenda* and any related material for *Ordinary 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.

- (6) Copies of the *agenda* and any related material for *Special meetings* and *Special Committee* meetings must be made available to members of the public immediately after they are delivered or sent electronically to Councillors, by being made available at the Civic Centre and on *Council's* website.

19. Agenda

- (1) The *agenda* for an *Ordinary meeting* will be determined by the Mayor and the *Chief Executive Officer* jointly, but the views of Councillors expressed at any relevant Councillor briefing are to be taken into account in finalising the *agenda*.
- (2) Late reports can only be accepted into the *agenda* by a majority vote of Councillors.

DIVISION 2 – QUORUMS

20. Ordinary meetings

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

21. Special meetings

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

22. Inability to obtain a quorum

If, after 30 minutes from the scheduled starting time of any *Ordinary meeting* or *Special meeting*, a quorum cannot be obtained, those Councillors present or, if there are no Councillors present, the *Chief Executive Officer* or, if the *Chief Executive Officer* is absent, any *senior officer* who is present, may adjourn the meeting for a period not exceeding seven days.

23. Inability to maintain a quorum

If during any *Ordinary meeting* or *Special meeting* or any adjournment of the meeting, a quorum cannot be maintained then clause 22 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

24. Inability to achieve or maintain a quorum due to conflicts of interest of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the *Chair* or, if there is no *Chair*, the *Chief Executive Officer* or, if the *Chief Executive Officer* is absent, any *senior officer* who is present, may adjourn the meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.

25. Adjourned meetings

- (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.
- (2) If it is impracticable for the notice given under sub-clause (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.
- (3) Notice must also be provided to the public of the resumption of the adjourned meeting by either giving public notice (if time reasonably permits) or publishing details on *Council's* website and posting a notice at the entrance to the Council Chambers and Civic Centre.

26. Time limits for meetings

- (1) An *Ordinary meeting* and *Special meeting* must not continue for more than four hours from its commencement unless a majority of Councillors present vote in favour of its continuance.

- (2) Notwithstanding sub-clause (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.
- (3) A continuance must not exceed 30 minutes.
- (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 clause 25(1) and (2) apply.

DIVISION 3 – BUSINESS OF MEETINGS

27. The order of business

- (1) The business of an *Ordinary meeting* must be conducted in the following order unless the *Council* otherwise resolves:
 - (a) Councillor statement regarding conflicts of interest, opening prayer and acknowledgement of Traditional Owners;
 - (b) Minutes of last meeting or meetings confirmed and signed;
 - (c) Apologies;
 - (d) Disclosure of interest and declarations of conflict of interest;
 - (e) Public questions and submissions time;
 - (f) **Councillor statements;**
 - (g) Items brought forward;
 - (h) Consideration of reports of committees;
 - (i) Consideration of reports of officers;
 - (j) Presentation of petitions and joint letters;
 - (k) Delegates' reports
 - (l) Notices of motion;
 - (m) **Late reports;**
 - (n) Urgent business;
 - (o) Items to be dealt with in Closed Council:

- (i) Disclosures of interest and declarations of conflict of interest;
 - (ii) Considerations of reports of officers;
 - (iii) Notices of motion; and
 - (iv) *Urgent business*.
- (2) Notwithstanding the above clause, the *Chief Executive Officer* may vary the order of business to take advantage of opportunities which may arise from time to time.

28. Change to order of business

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

29. Conflicts of interest

- (1) A Councillor must disclose any conflict of interest which that Councillor has in an item of business at the time specified in the *agenda*.
- (2) Nothing in sub-clause (1) derogates from a Councillor's duty under the *Act* to disclose the existence, nature and class of any conflict of interest which that Councillor has in an item of business immediately before the consideration or discussion of that item of business.

Section 77A of the Act defines when a Councillor will have a conflict of interest. Any Councillor who has a conflict of interest must comply with the requirements of section 79 of the Act.

Among these requirements is the requirement to disclose the existence, nature and class of the conflict of interest. This must be done 'immediately' before the consideration or discussion of the item in which the Councillor has a conflict of interest.

So, even if the Councillor has disclosed the conflict of interest earlier in the meeting, the existence and nature of the conflict of interest must again be disclosed immediately before any consideration or discussion of the agenda item occurs.

30. Urgent business

- (1) Business which has not been listed on the *agenda* must only be raised as *Urgent Business* by resolution of *Council*.

- (2) Unless exceptional circumstances exist and *Council* approves by resolution, only items:
- (a) of minimal impact; and
 - (b) 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*.
- (3) 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*):
- (a) the creation or abolition of any office;
 - (b) the appointment of any person to any office or termination of that appointment;
 - (c) employment issues;
 - (d) the sale or lease of any assets;
 - (e) the declaration of any rate or charge;
 - (f) the creation, alteration or abolition of any strategy, policy or guideline;
 - (g) any request for an investigation which will unreasonably or substantially divert staff resources;
 - (h) any request for a report which will unreasonably or substantially divert staff resources;
 - (i) the commitment of funds, or in kind contributions, for any purposes which will exceed \$5,000; and
 - (j) the content, and provision, of any media release.

31. Reports of delegates

- (1) A Councillor or member of *Council* staff who is a *delegate* may present to *Council* on the deliberations of the external body, association, group or working party in respect of which he or she is a *delegate* or an attendee at a *Council* approved conference / seminar.
- (2) In presenting, the Councillor may for up to three minutes:
- (a) address *Council* on the contents of any *written* report which the Councillor has submitted for inclusion in the *agenda*; or

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

32. Councillor statements

- (1) Following the conclusion of public questions and submissions time at an *Ordinary meeting*, a Councillor statement may be made by any Councillor who wishes to do so.
- (2) A Councillor statement may be used to:
 - (a) raise matters of importance to the municipality; or
 - (b) make a statement about a matter that is pertinent to *Council* or the Councillor.
- (3) A Councillor statement must not relate to a matter already listed on the *agenda* for that *Council meeting*.
- (4) The maximum duration of a Councillor statement is two minutes, and no extension of time is permitted.

DIVISION 4 – MOTIONS AND DEBATE

33. Councillors may propose *notices of motion*

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

34. *Notice of motion*

- (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 **4 11** clear *business 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 **preceding** Wednesday two weeks prior to the meeting date.*

- (2) A *notice of motion* will not be accepted if it:
 - (a) 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.

- (b) declares a rate or charge;
 - (c) is defamatory, indecent, abusive or objectionable in language or substance;
 - (d) promotes or is likely to facilitate a threat to public order or safety; or
 - (e) 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*.
- (3) The *Chief Executive Officer* may reject any *notice of motion* which is vague or unclear in intention but must:
- (a) notify the Councillor who lodged the *notice of motion* of the rejection and reasons for the rejection; and
 - (b) provide reasonable assistance to the Councillor to help ensure that a *notice of motion*:
 - (i) of similar intention; but
 - (ii) which is neither vague nor unclearis lodged.
- (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.
- (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.
- (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.
- (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.

- (8) If a *notice of motion* is not moved at the meeting at which it is listed, it lapses.
- (9) If a *notice of motion* is moved but not seconded, it lapses.
- (10) Except where the *notice of motion* is to confirm a previous resolution of *Council*, the *notice of motion* may be amended.
- (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.
- (12) Once a *notice of motion* has been moved and seconded, the mover cannot amend it.
- (13) Notwithstanding sub-clause (11) another Councillor may move an amendment to the *notice of motion*, which motion must be dealt with in accordance with clause 36(2) of this Local Law.
- (14) **A Councillor cannot foreshadow an alternate motion to amend another Councillor's notice of motion.**

35. Chair's duty

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

- (1) defamatory of or embarrassing to any Councillor, member of *Council* staff or other person;
 - (2) abusive or objectionable in language or nature;
 - (3) a direct negative of the question before the *Chair*;
 - (4) vague or unclear in intention;
 - (5) outside the powers of *Council*; or
 - (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*.

36. Introducing a motion or an amendment

- (1) The procedure for moving any motion or amendment is:
 - (a) the mover must state the motion without speaking to it;

- (b) 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;
 - (c) 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?"
 - (d) after the mover has addressed the meeting or been provided with an opportunity to address the meeting, the seconder may address the meeting;
 - (e) 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
 - (f) 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.
- (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.
 - (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.**
 - (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 or, if there is no such Councillor in a position to take the chair, a temporary Chairperson must take the chair in accordance with clause 12 whereupon the *Chair* must vacate the chair and not return to it until the motion has been resolved upon.

37. Right of reply

- (1) The mover of a motion which has not been amended has a right of reply to matters raised during debate.
- (2) After the right of reply has been taken but subject to any Councillor exercising 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.

- (3) Except for the mover of a motion who has the right of reply, all other Councillors can only speak once to the motion before the *Chair*.

38. Moving an amendment

- (1) Subject to sub-clause (2) a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- (2) A motion to confirm a previous resolution of *Council* cannot be amended.
- (3) An amendment must not be directly opposite to the motion.
- (4) The mover of an amendment cannot exercise any right of reply.

39. Who may propose and debate an amendment

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

40. How many amendments may be proposed

- (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.
- (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.

41. An amendment once carried

- (1) If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.

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

42. Foreshadowing motions

- (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.
- (2) A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- (3) The *Chief Executive Officer* or person taking the minutes of the meeting is not required to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- (4) A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council meeting*.

43. 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.

44. Separation of motions

- (1) Where a motion contains more than one part:
- (a) *Council* by resolution; or
- (b) in the absence of a resolution, the *Chair*
- may require the motion to be put to the vote in separate parts.
- (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.

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

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

46. Priority of address

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

47. Motions in writing

- (1) The *Chair* may require that a long, complex or detailed motion be in writing.
- (2) *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

48. 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.

49. Debate must be relevant to the motion

- (1) Debate must always be relevant to the motion before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- (2) If after being requested to confine debate to the motion before the chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker not speak further in respect of the motion then before the *Chair*.
- (3) A speaker to whom a direction has been given under sub-clause (2) must comply with that direction.

50. Speaking times

- (1) A Councillor must not speak longer than the time set out below, unless granted an extension by *Council*:
 - (a) the mover of a motion or an amendment: three minutes;
 - (b) the mover of a motion exercising a right of reply: three minutes; and
 - (c) any other Councillor: three minutes.
- (2) Only one extension is permitted for each speaker.
- (3) A motion to extend the speaking time cannot be moved:

- (a) until the original speaking time has expired; and
 - (b) if another speaker has already commenced his or her contribution to the debate,
and must be seconded.
- (4) Any extended speaking time must not exceed three minutes.

51. Addressing the meeting

- (1) If the *Chair* so determines:
 - (a) any person addressing the *Chair* must refer to the *Chair* as:
 - (i) *Madam Mayor*; or
 - (ii) *Mr Mayor*; or
 - (iii) *Madam Chair*; or
 - (iv) *Mr Chair*as the case may be;
 - (b) all Councillors, other than the *Mayor*, must be addressed as Cr_____ (name).
 - (c) all members of *Council* staff, must be addressed as Mr or Ms_____ (name) as appropriate or by their official title.
- (2) Except for the *Chair*, any Councillor who addresses the meeting at an *Ordinary meeting* or *Special meeting* must direct all remarks through the *Chair*.

52. 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.

53. Right to ask questions

- (1) A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the *Chair*.
- (2) Any question asked of a member of *Council* staff must not have the effect of:

- (a) embarrassing the member of staff; or
 - (b) drawing the member of staff into the debate.
- (3) Any question asked in contravention of sub-clause (2) may be disallowed by the *Chair*.
- (4) The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 5 – PROCEDURAL MOTIONS

54. Procedural motions

- (1) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- (2) Procedural motions require a seconder.
- (3) The mover of a procedural motion must not have moved, seconded or spoken to the question before the *Chair* or any amendment of it.
- (4) Notwithstanding any other provision in this Local Law, 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 meeting 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 meeting 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

55. Notice of rescission

- (1) A Councillor may propose a *notice of rescission* provided:
- (a) it has been signed and dated by at least ~~three~~ **four** Councillors, **including one Councillor who previously supported the resolution proposed to be rescinded;**
 - (b) the resolution proposed to be rescinded has not been acted on; and
 - (c) 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:
 - (i) the resolution to be rescinded; and
 - (ii) 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 the Local Law regulating notices of motion equally apply to notices of rescission.

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

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

- (3) The *Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a notice of rescission which has been delivered or sent electronically to the *Chief Executive Officer* in accordance with sub-clause (1)(c).

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.

Clause 55(3) would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

56. 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 motion* be re-listed at a future meeting.

57. 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.

58. 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.

59. When not required

A notice of rescission is not required where Council wishes to change policy.

DIVISION 7 – POINTS OF ORDER

60. Valid points of order

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

- (a) is contrary to this Local Law;
- (b) is irrelevant to the matter under consideration;
- (c) is outside the powers of *Council*;
- (d) is an error of fact;
- (e) constitutes improper behaviour;
- (f) is offensive;
- (g) constitutes a tedious repetition of something already said; or
- (h) is an act of disorder.

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

61. Procedure for point of order

A Councillor raising a point of order must:

- (a) state the point of order; and
- (b) state any section, clause, paragraph or provision relevant to the point of order.

62. Chair to decide

- (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.
- (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 or, if there is no such Councillor in a position to take the chair, a temporary Chairperson must take the chair in accordance with clause 12 whereupon the *Chair* must vacate the chair and not return to it until the point of order has been resolved upon.
- (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 clause 90 and, in accordance with that clause, order the removal of such Councillor from the Chamber for a specified period.

63. 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.

64. Chair may adjourn to consider

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

65. Effect of ruling

If the *Chair*:

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

66. Dissent from *Chair's* ruling

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

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- (2) When a motion in accordance with this clause is moved and seconded:
 - (a) the *Chair* must leave the chair and the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor must chair the meeting; or
 - (b) if there is no Deputy Mayor the *Chair* must leave the chair and the chair must be assumed by a temporary Chairperson.
- (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.
- (4) The Deputy Mayor or the temporary Chairperson must put the motion in the following form:

"That the *Chair's* ruling be dissented from."
- (5) If the vote is in the negative, the *Chair* resumes the chair and the meeting proceeds.
- (6) If the vote is in the affirmative, the *Chair* must then resume the chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- (7) The defeat of the *Chair's* ruling is in no way a motion of censure or non-confidence in the *Chair*, and should not be so regarded by the meeting.

DIVISION 8 – PUBLIC QUESTION TIME

67. Question time

- (1) There must be a public question time at every *Ordinary meeting* 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.**
- (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 Ordinary 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 Ordinary meeting, and to which a written answer may need to be given in the days following the meeting).

- (3) Questions submitted to *Council* must be:
 - (a) 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
 - (b) 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.
- (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.
- (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 clause.
- (6) **Questions that relate to operational matters may be read but answered in writing by the Chief Executive Officer outside the meeting.**
- (7) Notwithstanding sub-clause (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.
- (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:
 - (a) 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);
 - (b) relates to a matter outside the duties, functions and powers of *Council*;
 - (c) is defamatory, abusive, offensive or objectionable in language or substance;

- (d) deals with a subject matter already answered; or
 - (e) is aimed at embarrassing a Councillor or a member of *Council* staff.
- (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:
- (a) the questioner is asked to provide his or her contact details, unless those details are already known by *Council*;
 - (b) 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
 - (c) the question be recorded in the minutes of the meeting, together with a copy of the written response.

DIVISION 9 – PETITIONS AND JOINT LETTERS

68. Petitions and joint letters

- (1) Unless *Council* determines to consider it as an item of *Urgent Business*, no motion (other than a motion to receive the same) may be made on any petition or joint letter until the next *Ordinary meeting* after that at which it has been presented.
- (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*.
- (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.
- (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.
- (5) A petition must include a request on every page, consisting of the following words:

*“We the undersigned hereby petition Frankston City Council
.....”*

- (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.
- (7) Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- (8) A copy of the text of the petition or joint letter must be included on the agenda for the next *Ordinary meeting*.
- (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.
- (10) The only motions that may be moved in relation to petitions set out in the *agenda* are:
 - (a) That the petition be received;
 - (b) That the petition be received and a report be submitted to a specific meeting cycle for consideration;
 - (c) That the petition be considered at a specific time or in conjunction with a specific item;
 - (d) That the petition be dealt with in conjunction with another item on the agenda or any other *Council* or *Special Committee agenda*; and
 - (e) That the petition be referred to the *Chief Executive Officer* for consideration and response and the response to the petition be submitted to a specific meeting cycle for finalisation.
- (11) If a petition relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- (12) No member of the public is permitted to speak to the petition when presented at an *Ordinary meeting*. Individuals may request to speak to the petition when any report on the item is considered by a *Special Committee* at a later meeting.

69. 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

70. Individual presentations to *Special Committee* meetings and *Ordinary Meetings*

An individual wishing to present to a designated meeting of a *Special Committee* or at an *Ordinary meeting* or *Special meeting* may make a request to the *Chief Executive Officer* or his or her nominee.

71. Requests to present

- (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.
- (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.
- (3) Requests received after the time referred to in sub-clause (1) will not be considered by the *Special Committee* or *Council* (as the case may be).

72. When a presentation can be made

A person may only present to a designated meeting of a *Special Committee* or an *Ordinary meeting* or *Special meeting* if he or she:

- (1) proposes to present to an item on the *agenda*; and
- (2) has been registered to speak following a request made under clause 70.

73. Limitations upon speakers

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

74. Questions but no discussion permitted

Following a speaker's presentation, members of the *Special Committee* or Councillors at an *Ordinary meeting* or *Special meeting* or members of *Council* staff at either meeting may only ask the speaker questions or seek clarification of issues

raised by the speaker in his or her presentation which may assist in the deliberations prior to the elected body making a decision but no discussion will be allowed.

75. Individual presentation to section 223 *Special Committee*

- (1) Where a request to be heard has been received in accordance with section 223 of the *Act*, the speaker must be afforded a reasonable opportunity to speak up to a maximum period of five minutes. One extension of up to one minute may be granted by the *Chair*.
- (2) Councillors may, through the *Chair*, question or seek clarification of any submitter in relation to his or her submission.
- (3) Where a submitter has been heard in accordance with section 223 of the *Act* at a *Special Committee* established for that purpose, or where there are no submitters at a section 223 hearing, no further opportunity will be afforded to speak again on the subject matter when it is considered at the *Ordinary meeting* or *Special meeting*.

76. Relaxation of requirement

Nothing in this Division prevents:

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

DIVISION 11 – VOTING

77. How motion determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion, those opposed to the motion and (if applicable) those abstaining from voting, and must then declare the result to the meeting.

78. Silence

Voting must take place in silence.

79. Recount

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

80. Casting vote

In the event of a tied vote, the *Chair* must exercise the casting vote in accordance with the *Act*.

There are some circumstances in which the Chair does not have a casting vote and the matter is to be determined by lot. These are to be found in section 90(2) of the Act.

81. By show of hands

Voting on any matter is by show of hands.

82. Procedure for a division

- (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.
- (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.
- (3) When a division is called for, the *Chair* must:

- (a) 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;
- (b) 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
- (c) 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.

83. 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:

- (a) 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
- (b) 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, clause 83 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, clause 83 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 clause 83(b), to discussion about a positive motion were a resolution has just been rescinded.

DIVISION 12 – MINUTES

84. Confirmation of minutes

- (1) At every meeting of *Council* the minutes of the preceding meeting(s) must be dealt with as follows:
- (a) a copy of the draft minutes must be delivered to each Councillor no later than 48 hours after the Mayor has signed the minutes;
 - (b) if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - (c) if a Councillor is dissatisfied with the accuracy of the minutes, he or she must:
 - (i) state the item or items with which he or she is dissatisfied; and
 - (ii) propose a motion clearly indicating the alternative language necessary to amend the minutes;
 - (d) a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
 - (e) the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively;
 - (f) unless otherwise resolved or required by law, minutes of a *Special Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*; and
 - (g) 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:
 - (i) the date, place, time and nature of the meeting;
 - (ii) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - (iii) the names of the members of Council staff present;
 - (iv) any disclosure of a conflict of interest made by a Councillor;

- (v) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - (vi) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - (vii) the vote cast by each Councillor, and any abstention from voting, when the vote was not unanimous or when the vote was taken upon a division;
 - (viii) the vote cast or any abstention from voting by any Councillor who has requested that his or her vote or abstention from voting be recorded in the minutes;
 - (ix) questions asked in Public Question Time and any answer given;
 - (x) the failure of a quorum;
 - (xi) any adjournment of the meeting and the reasons for that adjournment; and
 - (xii) the time at which standing orders were suspended and resumed.
- (2) Unless *Council* resolves otherwise and subject to any contrary requirements imposed by law, the minutes of any meeting of a committee established by *Council* must not be made public unless those minutes have been confirmed by *Council*.

It is possible that a Freedom of Information request is made for access to the unconfirmed minutes of a Committee meeting. If so and a decision on access needs to be made before Council can confirm the minutes the exceptions in sub-clause (2) allow access to the unconfirmed minutes to be given. This is an example of a contrary requirement "imposed by law".

85. 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.

86. 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.

87. Recording of meetings

- (1) the *Chief Executive Officer* or his/her delegate must record on **suitable recording equipment** all proceedings of an **Ordinary meeting or Special meeting** except where the meeting is closed to the public in accordance with section 82(2) of the Act.
- (2) Recordings of the proceedings will be retained and will be **placed on Council's website within 24 hours of the end of the meeting.**
- (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.**
- (4) Subject to sub-clause (1) above, members of the public must not operate photographic audio or video recording equipment or any other recording device at any **Ordinary meeting or Special meeting** without first obtaining the consent of *Council*. Such consent may at any time during the course of such meeting be revoked by *Council*.

Penalty: 5 penalty units

A member of the public who breaches clause 87(4) 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.

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

DIVISION 13 – BEHAVIOUR

88. Display of placards and posters

A person must not:

- (1) display any offensive, indecent, insulting or objectionable item or words in the Council Chambers; or

- (2) obstruct the entrance to the Council Chambers or a building where a *Council meeting* or a *Special Committee* meeting is being or about to be held.

Penalty: 5 penalty units.

89. Public addressing the meeting

- (1) Members of the public do not have a right to address *Council* and may only do so under Division 10 or with the consent of *Council*.
- (2) Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- (3) A member of the public present at a *Council meeting* must not interject during the meeting.

90. Chair may remove

- (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, or cause the removal of any object or material that is deemed by the *Chair* as being objectionable or disrespectful.
- (2) Any person removed from the meeting under sub-clause (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.

- (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.**

91. Offences

- (1) It is an offence for:
 - (a) a person to use the *common seal* or any device resembling the *common seal* without the authority of *Council*;

Penalty: 10 penalty units

- (b) a person to inscribe upon a petition or joint letter a name or signature purporting to be the name or signature of another person;

Penalty: 5 penalty units

- (c) any person, including a Councillor, who is guilty of any improper or disorderly conduct, to not leave the Chamber when requested by the *Chair* to do so; or

Penalty: 2 penalty units

- (d) any person to fail to comply with a direction of the *Chair* in relation to the conduct of the meeting and the maintenance of order

Penalty: 2 penalty units.

The penalty units set out in this sub-clause and elsewhere (eg clause 87(4)) represent the maximum amount, which a Court can order a person to pay. Even then, it requires a prosecution to be brought against the person in the Magistrates' Court. An alternative to prosecution is the infringement notice procedure outlined in sub-clause (2).

- (2) An *authorised officer* may, as an alternative to prosecution, issue an infringement notice in accordance with the *Infringements Act 2006* and associated regulations to any person who has committed an offence against this Local Law.
- (3) The fixed penalty in respect of an on the spot infringement is the amount set out in Schedule 1.
- (4) Any infringement notice issued to a person under this Local Law may be served on or given to the person by:
 - (a) delivering the notice to the person;
 - (b) leaving the notice at his or her usual or last known place of residence or business with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - (c) sending the document by post addressed to the person at his or her last known place of residence or business.

- (5) The relevant *authorised officer* may withdraw the infringement notice within 28 days after its date by sending a notice to the person on whom the infringement notice was served.
- (6) If the person pays the penalty before the infringement notice is withdrawn, the person is entitled to a refund of the penalty.
- (7) If the person pays the penalty within the time specified in the notice or, if the relevant *authorised officer* allows, before a summons is served on the person in respect of the infringement, the following provisions apply:
 - (a) further proceedings for an offence are not to be taken against the person; and
 - (b) there is to be no conviction recorded against the person for the infringement.
- (8) A penalty paid under this clause must be applied as if the person who paid it was convicted of the infringement in a Magistrates' Court on the information of a person authorised by *Council* to bring proceedings on its behalf.
- (9) If a person served with an infringement notice has not paid the penalty within the time specified in the notice or any extension of that time or if an infringement notice is not withdrawn proceedings may still be taken or continued to prosecute the alleged offence.
- (10) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (11) A person issued with an infringement notice is entitled to disregard the infringement notice and defend any prosecution in court.

92. 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 clause 25(1) and 25(2) apply.

93. 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 Local Law and whom the *Chair* has ordered to be removed from the meeting under clause 90 of this Local Law.

DIVISION 14 – ADDITIONAL DUTIES OF CHAIR

94. The *Chair's* duties and discretions

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

- (a) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (b) must ensure silence is preserved by all other persons while a Councillor or other speaker is addressing the meeting;
- (c) 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;
- (d) must call to order any person who is disruptive or unruly during any meeting; and
- (e) 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

95. Suspension of standing orders

- (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.

- (2) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:
- "That standing order be suspended to enable discussion on....."
- (3) No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

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

"That standing orders be resumed."

DIVISION 16 – MISCELLANEOUS

96. Procedure not provided in Local Law

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

97. Policies and guidelines

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

DIVISION 17 – SPECIAL AND ADVISORY COMMITTEES

98. Application to *Special Committees* generally

- (1) If *Council* establishes a *Special Committee* composed solely of Councillors, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Special Committee*.
- (2) For the purposes of sub-clause (1), a reference in Division 1-16 of this Local Law to:
- (a) a *Ordinary meeting* of *Council* is to be read as a reference to a meeting of the *Special Committee*;
 - (b) a Councillor is to be read as a reference to a member of the *Special Committee*; and
 - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Special Committee*.

99. Application to *Special Committees* specifically

Notwithstanding clause 98, if *Council* establishes a *Special Committee* composed solely of Councillors:

- (a) *Council* may; or

(b) the *Special Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-16 is or are (as appropriate) not to apply, whereupon that provision or those provisions will not apply until *Council* resolves, or the *Special Committee* with the approval of *Council* resolves, otherwise.

100. Application to *Advisory Committees* generally

- (1) If *Council* establishes an *Advisory Committee*, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Advisory Committee*.
- (2) For the purposes of sub-clause (1) a reference in Division 1-16 of this Local Law to:
- (a) a *Council meeting* is to be read as a reference to a meeting of the *Advisory Committee*;
 - (b) a Councillor is to be read as a reference to a member of the *Advisory Committee*; and
 - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Advisory Committee*.

101. Application to *Advisory Committees* specifically

Notwithstanding clause 100, if *Council* establishes an *Advisory Committee*:

- (a) *Council* may; or
- (b) the *Advisory Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-16 is or are (as appropriate) not to apply, whereupon that provision or those provisions will not apply until *Council* resolves, or the *Advisory Committee* with the approval of *Council* resolves, otherwise.

102. Adoption of recommendation

If a recommendation of a *Special Committee* is adopted by *Council*, what has been recommended becomes a resolution of *Council*.

The resolution for the making of this Local Law was agreed to by Frankston City Council on
xxxxxxxxxxxxxxxxxxxxxxxx 201x.

The Common Seal of **FRANKSTON CITY**)
COUNCIL was affixed this day of)
201x in the presence of:)

..... Mayor/Councillor

..... Chief Executive Officer

Schedule 1

Governance Local Law No. 1

Penalties Fixed for Infringement Notices

Local Law Provision	Offence	Penalty Units
87(4)	Recording meeting without prior approval	5
88	Displaying certain objects or words or obstructing entrance to Council Chambers or building	5
91(1)(a)	Using the <i>common seal</i> or replica without authority	10
91(1)(b)	Fraudulently signing a petition or joint letter	5
91(1)(c) and (d)	Call to Order – Failing to comply with a direction of the <i>Chair</i>	2



Frankston City Council

Local Law No. 1

Governance Local Law

Contents

PART A – INTRODUCTION	1
1. Title	1
2. Purpose of this Local Law	1
3. Authorising provision	1
4. Commencement and end dates	2
5. Revocation of Local Law No. 1 of 2015	2
6. Definitions and notes	2
7. Review of Local Law	3
PART B – ELECTION OF MAYOR	4
8. Election of the <i>Mayor</i>	4
9. Method of voting	4
10. Determining the election of the <i>Mayor</i>	4
11. Election of Deputy Mayor and <i>Chairs</i>	6
12. Identity of temporary <i>Chairs</i>	6
PART C – COUNCIL’S COMMON SEAL	6
13. <i>Council’s</i> common seal	6
PART D – COUNCILLOR BRIEFING ARRANGEMENTS	7
14. Councillor briefing arrangements	7
PART E – MEETINGS PROCEDURE	8
DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS	8
15. Dates and times of meetings	8
16. Council / Committee meeting location	8
17. Special meetings	9
18. Notice of meeting	9
19. Agenda	11
DIVISION 2 – QUORUMS	11
20. Ordinary meetings	11
21. Special meetings	11
22. Inability to obtain a quorum	12
23. Inability to maintain a quorum	12
24. Inability to achieve or maintain a quorum due to conflicts of interest of Councillors	12
25. Adjourned meetings	12
26. Time limits for meetings	12
DIVISION 3 – BUSINESS OF MEETINGS	13
27. The order of business	13
28. Change to order of business	14
29. Conflicts of interest	14
30. Urgent business	14
31. Reports of delegates	15
32. Councillor statements	16
DIVISION 4 – MOTIONS AND DEBATE	16
33. Councillors may propose <i>notices of motion</i>	16

34.	<i>Notice of motion</i>	16
35.	Chair's duty.....	18
36.	Introducing a motion or an amendment	18
37.	Right of reply.....	19
38.	Moving an amendment	20
39.	Who may propose and debate an amendment.....	20
40.	How many amendments may be proposed	20
41.	An amendment once carried	20
42.	Foreshadowing motions	21
43.	Withdrawal of motions.....	21
44.	Separation of motions	21
45.	<i>Chair</i> may separate motions or allow motions to be moved in block.....	21
46.	Priority of address	22
47.	Motions in writing	22
48.	Repeating motion and/or amendment.....	22
49.	Debate must be relevant to the motion	22
50.	Speaking times.....	22
51.	Addressing the meeting	23
52.	If lost.....	23
53.	Right to ask questions.....	23
DIVISION 5 – PROCEDURAL MOTIONS		24
54.	Procedural motions.....	24
DIVISION 6 – RESCISSION MOTIONS		27
55.	Notice of rescission	27
56.	If lost.....	28
57.	If not moved.....	28
58.	May be moved by any Councillor.....	29
59.	When not required.....	29
DIVISION 7 – POINTS OF ORDER.....		29
60.	Valid points of order	29
61.	Procedure for point of order	29
62.	<i>Chair</i> to decide.....	30
63.	No debate.....	30
64.	<i>Chair</i> may adjourn to consider	30
65.	Effect of ruling.....	30
66.	Dissent from <i>Chair's</i> ruling.....	31
DIVISION 8 – PUBLIC QUESTION TIME		31
67.	Question time	31
DIVISION 9 – PETITIONS AND JOINT LETTERS.....		33
68.	Petitions and joint letters.....	33
69.	Submissions by incorporated associations	34
DIVISION 10 – PUBLIC SUBMISSIONS		35
70.	Individual presentations to <i>Special Committee</i> meetings and <i>Ordinary Meetings</i>	35
71.	Requests to present	35
72.	When a presentation can be made	35
73.	Limitations upon speakers	35

74.	Questions but no discussion permitted	35
75.	Individual presentation to section 223 <i>Special Committee</i>	36
76.	Relaxation of requirement	36
DIVISION 11 – VOTING		37
77.	How motion determined.....	37
78.	Silence	37
79.	Recount.....	37
80.	Casting vote.....	37
81.	By show of hands.....	37
82.	Procedure for a division	37
83.	No discussion once declared	38
DIVISION 12 – MINUTES.....		39
84.	Confirmation of minutes	39
85.	No debate on confirmation of minutes	40
86.	Deferral of confirmation of minutes.....	41
87.	Recording of meetings.....	41
DIVISION 13 – BEHAVIOUR		41
88.	Display of placards and posters.....	41
89.	Public addressing the meeting	42
90.	<i>Chair</i> may remove	42
91.	Offences.....	42
92.	<i>Chair</i> may adjourn disorderly meeting.....	44
93.	Removal from Chamber	44
DIVISION 14 – ADDITIONAL DUTIES OF <i>CHAIR</i>		45
94.	The <i>Chair’s</i> duties and discretions	45
DIVISION 15 – SUSPENSION OF STANDING ORDERS.....		45
95.	Suspension of standing orders	45
DIVISION 16 – MISCELLANEOUS		46
96.	Procedure not provided in Local Law	46
97.	Policies and guidelines.....	46
DIVISION 17 – SPECIAL AND ADVISORY COMMITTEES		46
98.	Application to <i>Special Committees</i> generally	46
99.	Application to <i>Special Committees</i> specifically	46
100.	Application to <i>Advisory Committees</i> generally	47
101.	Application to <i>Advisory Committees</i> specifically	47
102.	Adoption of recommendation	47
Schedule 1.....		49

PART A – INTRODUCTION

1. Title

This Local Law will be known as the "Governance Local Law".

2. Purpose of this Local Law

- (1) The purpose of this Local Law is to provide for the orderly, efficient and equitable conduct of meetings of Council and Special Committees.
 - (2) Specifically, this Local Law is to:
 - (a) 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;
 - (b) promote and encourage community participation in the system of local government by providing mechanisms for *Council* to ascertain the community's views and expectations;
 - (c) provide for the election of the *Mayor*;
 - (d) regulate the use of the *common seal*;
 - (e) prohibit unauthorised use of the *common seal* or any device resembling the *common seal*;
 - (f) provide for the procedures governing the conduct of *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings, to facilitate their orderly, efficient and equitable operation;
 - (g) set the rules of behaviour for those participating in or present at *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings; and
 - (h) provide for the role of the *Mayor* and any Deputy Mayor.
-

3. Authorising provision

This Local Law is made under section 111(1) of the *Local Government Act 1989*.

4. **Commencement and end dates**

This Local Law:

- (a) commences on the day following the day on which notice of the making of this Local Law is published in the *Victoria Government Gazette*, and operates throughout the *municipal district*; and
- (b) ends on the 10th anniversary of the day on which it commenced operation.

5. **Revocation of Local Law No. 1 of 2009 2015**

On the commencement of this Local Law, Council's ~~General (Amendment) Local Law No. 1 of 2009~~ Governance Local Law No. 1 of 2015 is revoked.

6. **Definitions and notes**

- (1) In this Local Law:

"**Act**" means the Local Government Act 1989;

"**Advisory Committee**" means an advisory committee established by *Council* under section 86(1) of the *Act*;

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

"**authorised officer**" means a member of Council staff who is authorised by *Council* to carry out specific functions under this Local Law;

"**business day**" means a period between 8.30am and 5.00pm on a day which is not a Saturday, Sunday or public holiday;

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

"**Chief Executive Officer**" means the Chief Executive Officer of *Council*;

"**common seal**" means the common seal of *Council*;

"**Council**" means Frankston City Council;

"**Council meeting**" includes a meeting at which the *Mayor* is elected, an *Ordinary meeting* and a *Special meeting*;

"**delegate**" means a Councillor or member of *Council* staff who, by virtue of a resolution, is *Council's* delegate, nominee or appointee to an external body, association, group or working party;

"**Mayor**" means the Mayor of *Council*;

"**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*;

"**offence**" means an act or default contrary to this Local Law;

"**Ordinary meeting**" means any meeting of *Council* which is not a *Special meeting*;

"**penalty units**" mean penalty units as prescribed in the *Sentencing Act 1992*;

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

"**Special Committee**" means a special committee established by *Council* under section 86(1) of the *Act*;

"**Special meeting**" means a Special meeting of *Council* convened and held in accordance with section 84, 84A or 85 of the *Act*;

"**urgent business**" means business which is raised under clause 30;

"**visitor**" means any person (other than a Councillor, member of a *Special Committee*, or member of *Council* staff) who is in attendance at a *Council meeting* or a *Special Committee* meeting; and

"**written**" includes duplicated, lithographed, photocopied, printed and typed, and extends to both hard copy and soft copy form.

- (2) Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.

7. Review of Local Law

To ensure the appropriate functioning of *Council meetings* this Local Law will be formally reviewed every four years before the public, or sooner if *Council* determines that a review is required by any particular circumstance.

This Local Law can be amended from time to time in accordance with the statutory procedure for making a local law, to best suit *Council's* circumstances.

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.

8. Election of the *Mayor*

- (1) A meeting to elect the *Mayor* must be held:
 - (a) as soon as practicable after the declaration of the results of a general election of Councillors;
 - (b) as soon as practicable after the fourth Saturday in October, in years between general elections of Councillors; and
 - (c) as soon as practicable after the office of *Mayor* otherwise becomes vacant.
- (2) A temporary *Chair* must be elected to facilitate the election of the *Mayor* in accordance with the provisions of this Local Law and the *Act*.

9. Method of voting

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

10. Determining the election of the *Mayor*

- (1) The temporary *Chair* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- (2) Any nomination for the office of *Mayor* must be seconded.
- (3) Once nominations for the office of *Mayor* have been received and those nominated have accepted their nomination, the following provisions will govern the election of the *Mayor*:
 - (a) if there is only one nomination, the candidate nominated is deemed to be elected;
 - (b) 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;

- (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
- (d) in the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
- (e) 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 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;
- (f) in the event of two or more candidates having an equality of votes and one of them having to be declared:
 - (i) a defeated candidate; and
 - (i) duly electedthe declaration will be determined by lot.
- (g) if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
 - (i) each candidate will draw one lot;
 - (ii) 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
 - (iii) 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).

11. Election of Deputy Mayor and *Chairs*

- (1) At a meeting to elect the *Mayor*, *Council* will, immediately after the election of the *Mayor*, elect a Deputy Mayor.
- (2) Any election for:
 - (a) the office of Deputy Mayor; or
 - (b) temporary *Chair*, in cases where a temporary *Chair* needs to be elected under clause 12will be regulated by clauses 8-10 (inclusive) of this Local Law, as if, in the case of any election for Deputy Mayor, the reference to the:
 - (c) temporary *Chair* is a reference to the *Mayor*; and
 - (d) *Mayor* is a reference to the Deputy Mayor.
- (3) 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.

12. Identity of temporary *Chairs*

If:

- (1) the *Mayor* and any Deputy Mayor are absent from a *Council meeting*;
- (2) it is a meeting to elect the *Mayor*; or
- (3) for any other reason a temporary *Chair* is required,
the Councillor who most recently served as *Mayor* will be the temporary *Chair* or, if no such Councillor is present, a Councillor who is elected by the meeting to be temporary *Chair* will become the temporary *Chair*.

PART C – COUNCIL’S COMMON SEAL

Introduction: The *common seal* is a device which formally and solemnly records the collective will of *Council*. The provisions in this Part are designed to protect the integrity of the *common seal*, and describe when it may be affixed to a document.

13. Council’s common seal

- (1) The *Chief Executive Officer* must ensure the security of the *common seal* at all times.

- (2) The affixing of the *common seal* to any document must be attested to by not less than two persons, comprising both:
 - (a) one Councillor and the *Chief Executive Officer*; or
 - (b) in the absence of the *Chief Executive Officer*, one Councillor and a member of Council staff authorised to perform this function by the *Chief Executive Officer*.
- (3) Where *Council* authorises the *common seal* to be affixed to any document, the *Chief Executive Officer* must:
 - (a) cause the sealed document to be allocated a seal register number; and
 - (b) ensure that a description of the document sealed is entered into the seal register.

PART D – COUNCILLOR BRIEFING ARRANGEMENTS

Introduction: This Part describes the nature and procedure for some informal meetings of Councillors.

Councillors meet on a number of occasions monthly at "Councillor Briefings". These are "Assemblies of Councillors" within the meeting of the *Act*.

This Part provides for these informal meetings, and explains why and how they are held.

14. Councillor briefing arrangements

- (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) 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.
- (3) The gatherings are not a decision-making forum.
- (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.
- (5) Clauses 87(5), 90, 91(1)(c) and (d), 93 and 94 apply to any gathering of Councillors at a scheduled briefing as if any reference to:

- (a) the *Chair* is a reference to the Councillor chairing the gathering;
 - (b) the meeting is a reference to the gathering; and
 - (c) the Chamber is a reference to the room in which the gathering is being held.
- (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.
- (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*.

PART E – 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

15. Dates and times of meetings

- (1) The dates, times and places of meetings are within the discretion of *Council*.
- (2) *Council* will, by resolution at the meeting at which the *Mayor* is to be elected, determine the day and time upon which any *Ordinary meetings* will be held and may by further resolution alter any such dates, times or places.
- (3) An *Ordinary meeting* may only be rescheduled or cancelled by a resolution of *Council*. *Council* must provide a reason for and reasonable notice of the change to the public.

16. Council / Committee meeting location

- (1) *Ordinary meetings* and *Special Committee* meetings will be held in the Council Chambers, or any building within the Civic Centre Precinct as determined by the *Mayor*, or another location outside the Civic Centre

Precinct by resolution of *Council* or the *Special Committee* (as the case may be).

- (2) *Special meetings* may be held at the Council Chambers or elsewhere in the Civic Centre as determined by the *Mayor*.

17. Special meetings

- (1) The *Mayor* or at least three Councillors may by a written notice call a *Special meeting*.
- (2) The notice must:
 - (a) specify the date and time of the *Special meeting* and the business to be transacted; and
 - (b) be delivered or sent electronically to the *Chief Executive Officer* in sufficient time to enable reasonable notice of the *Special meeting* to be given to all Councillors.
- (3) The *Chief Executive Officer* must convene the *Special meeting* as specified in the notice.
- (4) Unless all Councillors are present and unanimously agree to deal with any other matter, only the business specified in the notice is to be transacted.
- (5) Subject to any resolution providing otherwise, the order of business of any *Special meeting* must be the order in which such business stands in the *agenda* for the meeting.

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

Apart from this, the only other type of Special meeting that can be convened is a "Call of the Council". This is provided for in section 85 of the Act. It is generally reserved for occasions on which all Councillors are required to attend and remain throughout a Council meeting lest Council be deprived of a quorum and be unable to transact an item of business which has, in the past, not been transacted because of some Councillors absenting themselves from the Chamber and preventing proper consideration of the matter.

18. Notice of meeting

- (1) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically (at the

option of the Councillor) to every Councillor for all *Ordinary meetings* 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.

- (2) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for any *Special meeting* within a reasonable time of the *Special meeting* being called. Generally, this means that a notice of meeting must be delivered to every Councillor at least 48 hours before the meeting. A period less than 48 hours may, however, be justified if exceptional circumstances exist.
- (3) Notwithstanding sub-clauses (1) and (2):
- (a) a draft *agenda* for each *Ordinary 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
 - (b) 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.
- (4) Reasonable notice of each *Ordinary meeting* and *Special meeting* must be provided to the public. *Council* may do this:
- (a) for *Ordinary meetings* by preparing a schedule of meetings annually, 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 *Ordinary meeting*; and
 - (b) for any meeting by giving notice:
 - (i) in at least one local newspaper or daily metropolitan newspaper;
 - (ii) on its website; andunless time does not allow this to occur in a newspaper, in which case the posting of a notice setting out the details must be displayed on *Council's* website and the entrance of the Council Chambers and Civic Centre.

Section 89(4) of the Local Government Act 1989 requires at least seven

days' notice of a council meeting to be given to the public. Subsection (4A) requires 'urgent or extraordinary circumstances' to exist and be recorded in the minutes where less than seven days' notice of a meeting has been given.

- (5) Copies of the *agenda* and any related material for *Ordinary 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.

- (6) Copies of the *agenda* and any related material for *Special meetings* and *Special Committee* meetings must be made available to members of the public immediately after they are delivered or sent electronically to Councillors, by being made available at the Civic Centre and on *Council's* website.

19. Agenda

- (1) The *agenda* for an *Ordinary meeting* will be determined by the Mayor and the *Chief Executive Officer* jointly, but the views of Councillors expressed at any relevant Councillor briefing are to be taken into account in finalising the *agenda*.
- (2) Late reports can only be accepted into the *agenda* by a majority vote of Councillors.

DIVISION 2 – QUORUMS

20. Ordinary meetings

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

21. Special meetings

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

22. Inability to obtain a quorum

If, after 30 minutes from the scheduled starting time of any *Ordinary meeting* or *Special meeting*, a quorum cannot be obtained, those Councillors present or, if there are no Councillors present, the *Chief Executive Officer* or, if the *Chief Executive Officer* is absent, any *senior officer* who is present, may adjourn the meeting for a period not exceeding seven days.

23. Inability to maintain a quorum

If during any *Ordinary meeting* or *Special meeting* or any adjournment of the meeting, a quorum cannot be maintained then clause 22 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

24. Inability to achieve or maintain a quorum due to conflicts of interest of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the *Chair* or, if there is no *Chair*, the *Chief Executive Officer* or, if the *Chief Executive Officer* is absent, any *senior officer* who is present, may adjourn the meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act.

25. Adjourned meetings

- (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.
- (2) If it is impracticable for the notice given under sub-clause (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.
- (3) Notice must also be provided to the public of the resumption of the adjourned meeting by either giving public notice (if time reasonably permits) or publishing details on *Council's* website and posting a notice at the entrance to the Council Chambers and Civic Centre.

26. Time limits for meetings

- (1) An *Ordinary meeting* and *Special meeting* must not continue for more than four hours from its commencement unless a majority of Councillors present vote in favour of its continuance.

- (2) Notwithstanding sub-clause (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.
- (3) A continuance must not exceed 30 minutes.
- (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 clause 25(1) and (2) apply.

DIVISION 3 – BUSINESS OF MEETINGS

27. The order of business

- (1) The business of an *Ordinary meeting* must be conducted in the following order unless the *Council* otherwise resolves:
 - (a) Councillor statement regarding conflicts of interest, opening prayer and acknowledgement of Traditional Owners;
 - (b) Minutes of last meeting or meetings confirmed and signed;
 - (c) Apologies;
 - (d) Disclosure of interest and declarations of conflict of interest;
 - (e) Public questions and submissions time;
 - (f) Councillor statements;
 - (g) Items brought forward;
 - (h) Consideration of reports of committees;
 - (i) Consideration of reports of officers;
 - (j) Presentation of petitions and joint letters;
 - (k) Delegates' reports
 - (l) Notices of motion;
 - (m) Late reports;
 - (n) Urgent business;
 - (o) Items to be dealt with in Closed Council:

- (i) Disclosures of interest and declarations of conflict of interest;
 - (ii) Considerations of reports of officers;
 - (iii) Notices of motion; and
 - (iv) *Urgent business.*
- (2) Notwithstanding the above clause, the *Chief Executive Officer* may vary the order of business to take advantage of opportunities which may arise from time to time.

28. Change to order of business

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

29. Conflicts of interest

- (1) A Councillor must disclose any conflict of interest which that Councillor has in an item of business at the time specified in the *agenda*.
- (2) Nothing in sub-clause (1) derogates from a Councillor's duty under the *Act* to disclose the existence, nature and class of any conflict of interest which that Councillor has in an item of business immediately before the consideration or discussion of that item of business.

Section 77A of the Act defines when a Councillor will have a conflict of interest. Any Councillor who has a conflict of interest must comply with the requirements of section 79 of the Act.

Among these requirements is the requirement to disclose the existence, nature and class of the conflict of interest. This must be done 'immediately' before the consideration or discussion of the item in which the Councillor has a conflict of interest.

So, even if the Councillor has disclosed the conflict of interest earlier in the meeting, the existence and nature of the conflict of interest must again be disclosed immediately before any consideration or discussion of the agenda item occurs.

30. Urgent business

- (1) Business which has not been listed on the *agenda* must only be raised as *Urgent Business* by resolution of *Council*.

- (2) Unless exceptional circumstances exist and *Council* approves by resolution, only items:
- (a) of minimal impact; and
 - (b) 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*.
- (3) 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*):
- (a) the creation or abolition of any office;
 - (b) the appointment of any person to any office or termination of that appointment;
 - (c) employment issues;
 - (d) the sale or lease of any assets;
 - (e) the declaration of any rate or charge;
 - (f) the creation, alteration or abolition of any strategy, policy or guideline;
 - (g) any request for an investigation which will unreasonably or substantially divert staff resources;
 - (h) any request for a report which will unreasonably or substantially divert staff resources;
 - (i) the commitment of funds, or in kind contributions, for any purposes which will exceed \$5,000; and
 - (j) the content, and provision, of any media release.

31. Reports of delegates

- (1) A Councillor or member of *Council* staff who is a *delegate* may present to *Council* on the deliberations of the external body, association, group or working party in respect of which he or she is a *delegate* or an attendee at a *Council* approved conference / seminar.
- (2) In presenting, the Councillor may for up to three minutes:
- (a) address *Council* on the contents of any *written* report which the Councillor has submitted for inclusion in the *agenda*; or

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

32. Councillor statements

- (1) Following the conclusion of public questions and submissions time at an *Ordinary meeting*, a Councillor statement may be made by any Councillor who wishes to do so.
- (2) A Councillor statement may be used to:
 - (a) raise matters of importance to the municipality; or
 - (b) make a statement about a matter that is pertinent to *Council* or the Councillor.
- (3) A Councillor statement must not relate to a matter already listed on the *agenda* for that *Council meeting*.
- (4) The maximum duration of a Councillor statement is two minutes, and no extension of time is permitted.

DIVISION 4 – MOTIONS AND DEBATE

33. Councillors may propose *notices of motion*

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

34. *Notice of motion*

- (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 4 11 clear *business 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 ~~preceding~~ Wednesday two weeks prior to the meeting date.

- (2) A *notice of motion* will not be accepted if it:
 - (a) 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.

- (b) declares a rate or charge;
 - (c) is defamatory, indecent, abusive or objectionable in language or substance;
 - (d) promotes or is likely to facilitate a threat to public order or safety; or
 - (e) 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*.
- (3) The *Chief Executive Officer* may reject any *notice of motion* which is vague or unclear in intention but must:
- (a) notify the Councillor who lodged the *notice of motion* of the rejection and reasons for the rejection; and
 - (b) provide reasonable assistance to the Councillor to help ensure that a *notice of motion*:
 - (i) of similar intention; but
 - (ii) which is neither vague nor unclearis lodged.
- (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.
- (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.
- (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.
- (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.

- (8) If a *notice of motion* is not moved at the meeting at which it is listed, it lapses.
- (9) If a *notice of motion* is moved but not seconded, it lapses.
- (10) Except where the *notice of motion* is to confirm a previous resolution of *Council*, the *notice of motion* may be amended.
- (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.
- (12) Once a *notice of motion* has been moved and seconded, the mover cannot amend it.
- (13) Notwithstanding sub-clause (11) another Councillor may move an amendment to the *notice of motion*, which motion must be dealt with in accordance with clause 36(2) of this Local Law.
- (14) A Councillor cannot foreshadow an alternate motion to amend another Councillor's *notice of motion*.

35. Chair's duty

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

- (1) defamatory of or embarrassing to any Councillor, member of *Council* staff or other person;
 - (2) abusive or objectionable in language or nature;
 - (3) a direct negative of the question before the *Chair*;
 - (4) vague or unclear in intention;
 - (5) outside the powers of *Council*; or
 - (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*.

36. Introducing a motion or an amendment

- (1) The procedure for moving any motion or amendment is:
 - (a) the mover must state the motion without speaking to it;

- (b) 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;
 - (c) 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?"
 - (d) after the mover has addressed the meeting or been provided with an opportunity to address the meeting, the seconder may address the meeting;
 - (e) 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
 - (f) 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.
- (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.
 - (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.
 - (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 or, if there is no such Councillor in a position to take the chair, a temporary Chairperson must take the chair in accordance with clause 12 whereupon the *Chair* must vacate the chair and not return to it until the motion has been resolved upon.

37. Right of reply

- (1) The mover of a motion which has not been amended has a right of reply to matters raised during debate.
- (2) After the right of reply has been taken but subject to any Councillor exercising 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.

- (3) Except for the mover of a motion who has the right of reply, all other Councillors can only speak once to the motion before the *Chair*.

38. Moving an amendment

- (1) Subject to sub-clause (2) a motion which has been moved and seconded may be amended by leaving out or adding words. Any added words must be relevant to the subject of the motion.
- (2) A motion to confirm a previous resolution of *Council* cannot be amended.
- (3) An amendment must not be directly opposite to the motion.
- (4) The mover of an amendment cannot exercise any right of reply.

39. Who may propose and debate an amendment

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

40. How many amendments may be proposed

- (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.
- (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.

41. An amendment once carried

- (1) If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.

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

42. Foreshadowing motions

- (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.
- (2) A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chair* being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- (3) The *Chief Executive Officer* or person taking the minutes of the meeting is not required to record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.
- (4) A foreshadowed motion has no procedural standing and is merely a means of assisting the flow of a *Council meeting*.

43. 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.

44. Separation of motions

- (1) Where a motion contains more than one part:
- (a) *Council* by resolution; or
- (b) in the absence of a resolution, the *Chair*
- may require the motion to be put to the vote in separate parts.
- (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.

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

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

46. Priority of address

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

47. Motions in writing

- (1) The *Chair* may require that a long, complex or detailed motion be in writing.
- (2) *Council* may adjourn the meeting while the motion is being *written* or *Council* may defer the matter until the motion has been *written*, allowing the meeting to proceed uninterrupted.

48. 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.

49. Debate must be relevant to the motion

- (1) Debate must always be relevant to the motion before the *Chair*, and, if not, the *Chair* must request the speaker to confine debate to the motion.
- (2) If after being requested to confine debate to the motion before the chair, the speaker continues to debate irrelevant matters, the *Chair* may direct the speaker not speak further in respect of the motion then before the *Chair*.
- (3) A speaker to whom a direction has been given under sub-clause (2) must comply with that direction.

50. Speaking times

- (1) A Councillor must not speak longer than the time set out below, unless granted an extension by *Council*:
 - (a) the mover of a motion or an amendment: three minutes;
 - (b) the mover of a motion exercising a right of reply: three minutes; and
 - (c) any other Councillor: three minutes.
- (2) Only one extension is permitted for each speaker.
- (3) A motion to extend the speaking time cannot be moved:

- (a) until the original speaking time has expired; and
 - (b) if another speaker has already commenced his or her contribution to the debate,

and must be seconded.
- (4) Any extended speaking time must not exceed three minutes.

51. Addressing the meeting

- (1) If the *Chair* so determines:
 - (a) any person addressing the *Chair* must refer to the *Chair* as:
 - (i) *Madam Mayor*; or
 - (ii) *Mr Mayor*; or
 - (iii) *Madam Chair*; or
 - (iv) *Mr Chair*as the case may be;
 - (b) all Councillors, other than the *Mayor*, must be addressed as Cr_____ (name).
 - (c) all members of *Council* staff, must be addressed as Mr or Ms_____ (name) as appropriate or by their official title.
- (2) Except for the *Chair*, any Councillor who addresses the meeting at an *Ordinary meeting* or *Special meeting* must direct all remarks through the *Chair*.

52. 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.

53. Right to ask questions

- (1) A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the *Chair*.
- (2) Any question asked of a member of *Council* staff must not have the effect of:

- (a) embarrassing the member of staff; or
 - (b) drawing the member of staff into the debate.
- (3) Any question asked in contravention of sub-clause (2) may be disallowed by the *Chair*.
- (4) The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 5 – PROCEDURAL MOTIONS

54. Procedural motions

- (1) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- (2) Procedural motions require a seconder.
- (3) The mover of a procedural motion must not have moved, seconded or spoken to the question before the *Chair* or any amendment of it.
- (4) Notwithstanding any other provision in this Local Law, 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 meeting 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 meeting 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

55. Notice of rescission

- (1) A Councillor may propose a *notice of rescission* provided:
- (a) it has been signed and dated by at least ~~three~~ four Councillors, including one Councillor who previously supported the resolution proposed to be rescinded;
 - (b) the resolution proposed to be rescinded has not been acted on; and
 - (c) 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:
 - (i) the resolution to be rescinded; and
 - (ii) 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 the Local Law regulating notices of motion equally apply to notices of rescission.

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

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

- (3) The *Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:
- (a) has not been acted on; and
 - (b) is the subject of a notice of rescission which has been delivered or sent electronically to the *Chief Executive Officer* in accordance with sub-clause (1)(c).

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.

Clause 55(3) would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.

56. 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 motion* be re-listed at a future meeting.

57. 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.

58. 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.

59. When not required

A *notice of rescission* is not required where *Council* wishes to change policy.

DIVISION 7 – POINTS OF ORDER

60. Valid points of order

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

- (a) is contrary to this Local Law;
- (b) is irrelevant to the matter under consideration;
- (c) is outside the powers of *Council*;
- (d) is an error of fact;
- (e) constitutes improper behaviour;
- (f) is offensive;
- (g) constitutes a tedious repetition of something already said; or
- (h) is an act of disorder.

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

61. Procedure for point of order

A Councillor raising a point of order must:

- (a) state the point of order; and
- (b) state any section, clause, paragraph or provision relevant to the point of order.

62. Chair to decide

- (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.
- (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 or, if there is no such Councillor in a position to take the chair, a temporary Chairperson must take the chair in accordance with clause 12 whereupon the *Chair* must vacate the chair and not return to it until the point of order has been resolved upon.
- (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 clause 90 and, in accordance with that clause, order the removal of such Councillor from the Chamber for a specified period.

63. 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.

64. Chair may adjourn to consider

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

65. Effect of ruling

If the *Chair*:

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

66. Dissent from *Chair's* ruling

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

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- (2) When a motion in accordance with this clause is moved and seconded:
 - (a) the *Chair* must leave the chair and the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor must chair the meeting; or
 - (b) if there is no Deputy Mayor the *Chair* must leave the chair and the chair must be assumed by a temporary Chairperson.
- (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.
- (4) The Deputy Mayor or the temporary Chairperson must put the motion in the following form:

"That the *Chair's* ruling be dissented from."
- (5) If the vote is in the negative, the *Chair* resumes the chair and the meeting proceeds.
- (6) If the vote is in the affirmative, the *Chair* must then resume the chair, reverse or vary (as the case may be) his or her previous ruling and proceed.
- (7) The defeat of the *Chair's* ruling is in no way a motion of censure or non-confidence in the *Chair*, and should not be so regarded by the meeting.

DIVISION 8 – PUBLIC QUESTION TIME

67. Question time

- (1) There must be a public question time at every *Ordinary meeting* 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.
- (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 Ordinary 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 Ordinary meeting, and to which a written answer may need to be given in the days following the meeting).

- (3) Questions submitted to *Council* must be:
- (a) 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
 - (b) 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.
- (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.
- (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 clause.
- (6) Questions that relate to operational matters may be read but answered in writing by the *Chief Executive Officer* outside the meeting.
- (7) Notwithstanding sub-clause (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.
- (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:
- (a) 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);
 - (b) relates to a matter outside the duties, functions and powers of *Council*;
 - (c) is defamatory, abusive, offensive or objectionable in language or substance;

- (d) deals with a subject matter already answered; or
 - (e) is aimed at embarrassing a Councillor or a member of *Council* staff.
- (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:
- (a) the questioner is asked to provide his or her contact details, unless those details are already known by *Council*;
 - (b) 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
 - (c) the question be recorded in the minutes of the meeting, together with a copy of the written response.

DIVISION 9 – PETITIONS AND JOINT LETTERS

68. Petitions and joint letters

- (1) Unless *Council* determines to consider it as an item of *Urgent Business*, no motion (other than a motion to receive the same) may be made on any petition or joint letter until the next *Ordinary meeting* after that at which it has been presented.
- (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*.
- (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.
- (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.
- (5) A petition must include a request on every page, consisting of the following words:

*“We the undersigned hereby petition Frankston City Council
.....”*

- (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.
- (7) Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- (8) A copy of the text of the petition or joint letter must be included on the agenda for the next *Ordinary meeting*.
- (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.
- (10) The only motions that may be moved in relation to petitions set out in the *agenda* are:
 - (a) That the petition be received;
 - (b) That the petition be received and a report be submitted to a specific meeting cycle for consideration;
 - (c) That the petition be considered at a specific time or in conjunction with a specific item;
 - (d) That the petition be dealt with in conjunction with another item on the agenda or any other *Council* or *Special Committee agenda*; and
 - (e) That the petition be referred to the *Chief Executive Officer* for consideration and response and the response to the petition be submitted to a specific meeting cycle for finalisation.
- (11) If a petition relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- (12) No member of the public is permitted to speak to the petition when presented at an *Ordinary meeting*. Individuals may request to speak to the petition when any report on the item is considered by a *Special Committee* at a later meeting.

69. 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

70. Individual presentations to *Special Committee* meetings and *Ordinary Meetings*

An individual wishing to present to a designated meeting of a *Special Committee* or at an *Ordinary meeting* or *Special meeting* may make a request to the *Chief Executive Officer* or his or her nominee.

71. Requests to present

- (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.
- (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.
- (3) Requests received after the time referred to in sub-clause (1) will not be considered by the *Special Committee* or *Council* (as the case may be).

72. When a presentation can be made

A person may only present to a designated meeting of a *Special Committee* or an *Ordinary meeting* or *Special meeting* if he or she:

- (1) proposes to present to an item on the *agenda*; and
- (2) has been registered to speak following a request made under clause 70.

73. Limitations upon speakers

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

74. Questions but no discussion permitted

Following a speaker's presentation, members of the *Special Committee* or Councillors at an *Ordinary meeting* or *Special meeting* or members of *Council* staff at either meeting may only ask the speaker questions or seek clarification of issues

raised by the speaker in his or her presentation which may assist in the deliberations prior to the elected body making a decision but no discussion will be allowed.

75. Individual presentation to section 223 *Special Committee*

- (1) Where a request to be heard has been received in accordance with section 223 of the *Act*, the speaker must be afforded a reasonable opportunity to speak up to a maximum period of five minutes. One extension of up to one minute may be granted by the *Chair*.
- (2) Councillors may, through the *Chair*, question or seek clarification of any submitter in relation to his or her submission.
- (3) Where a submitter has been heard in accordance with section 223 of the *Act* at a *Special Committee* established for that purpose, or where there are no submitters at a section 223 hearing, no further opportunity will be afforded to speak again on the subject matter when it is considered at the *Ordinary meeting* or *Special meeting*.

76. Relaxation of requirement

Nothing in this Division prevents:

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

DIVISION 11 – VOTING

77. How motion determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion, those opposed to the motion and (if applicable) those abstaining from voting, and must then declare the result to the meeting.

78. Silence

Voting must take place in silence.

79. Recount

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

80. Casting vote

In the event of a tied vote, the *Chair* must exercise the casting vote in accordance with the *Act*.

There are some circumstances in which the Chair does not have a casting vote and the matter is to be determined by lot. These are to be found in section 90(2) of the Act.

81. By show of hands

Voting on any matter is by show of hands.

82. Procedure for a division

- (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.
- (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.
- (3) When a division is called for, the *Chair* must:

- (a) 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;
- (b) 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
- (c) 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.

83. 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:

- (a) 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
- (b) 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, clause 83 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.

Equally, clause 83 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 clause 83(b), to discussion about a positive motion were a resolution has just been rescinded.

DIVISION 12 – MINUTES

84. Confirmation of minutes

- (1) At every meeting of *Council* the minutes of the preceding meeting(s) must be dealt with as follows:
- (a) a copy of the draft minutes must be delivered to each Councillor no later than 48 hours after the Mayor has signed the minutes;
 - (b) if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - (c) if a Councillor is dissatisfied with the accuracy of the minutes, he or she must:
 - (i) state the item or items with which he or she is dissatisfied; and
 - (ii) propose a motion clearly indicating the alternative language necessary to amend the minutes;
 - (d) a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
 - (e) the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively;
 - (f) unless otherwise resolved or required by law, minutes of a *Special Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*; and
 - (g) 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:
 - (i) the date, place, time and nature of the meeting;
 - (ii) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
 - (iii) the names of the members of Council staff present;
 - (iv) any disclosure of a conflict of interest made by a Councillor;

- (v) arrivals and departures (including temporary departures) of Councillors during the course of the meeting;
 - (vi) each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - (vii) the vote cast by each Councillor, and any abstention from voting, when the vote was not unanimous or when the vote was taken upon a division;
 - (viii) the vote cast or any abstention from voting by any Councillor who has requested that his or her vote or abstention from voting be recorded in the minutes;
 - (ix) questions asked in Public Question Time and any answer given;
 - (x) the failure of a quorum;
 - (xi) any adjournment of the meeting and the reasons for that adjournment; and
 - (xii) the time at which standing orders were suspended and resumed.
- (2) Unless *Council* resolves otherwise and subject to any contrary requirements imposed by law, the minutes of any meeting of a committee established by *Council* must not be made public unless those minutes have been confirmed by *Council*.

It is possible that a Freedom of Information request is made for access to the unconfirmed minutes of a Committee meeting. If so and a decision on access needs to be made before Council can confirm the minutes the exceptions in sub-clause (2) allow access to the unconfirmed minutes to be given. This is an example of a contrary requirement "imposed by law".

85. 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.

86. 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.

87. Recording of meetings

- (1) the *Chief Executive Officer* or his/her delegate must record on suitable recording equipment all proceedings of an *Ordinary meeting* or *Special meeting* except where the meeting is closed to the public in accordance with section 82(2) of the *Act*.
- (2) Recordings of the proceedings will be retained and will be placed on *Council's* website within 24 hours of the end of the meeting.
- (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.
- (4) Subject to sub-clause (1) above, members of the public must not operate photographic audio or video recording equipment or any other recording device at any *Ordinary meeting* or *Special meeting* without first obtaining the consent of *Council*. Such consent may at any time during the course of such meeting be revoked by *Council*.

Penalty: 5 penalty units

A member of the public who breaches clause 87(4) 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.

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

DIVISION 13 – BEHAVIOUR

88. Display of placards and posters

A person must not:

- (1) display any offensive, indecent, insulting or objectionable item or words in the Council Chambers; or

- (2) obstruct the entrance to the Council Chambers or a building where a *Council meeting* or a *Special Committee* meeting is being or about to be held.

Penalty: 5 penalty units.

89. Public addressing the meeting

- (1) Members of the public do not have a right to address *Council* and may only do so under Division 10 or with the consent of *Council*.
- (2) Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chair* whenever called on to do so.
- (3) A member of the public present at a *Council meeting* must not interject during the meeting.

90. Chair may remove

- (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, or cause the removal of any object or material that is deemed by the *Chair* as being objectionable or disrespectful.
- (2) Any person removed from the meeting under sub-clause (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.

- (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.

91. Offences

- (1) It is an offence for:
- (a) a person to use the *common seal* or any device resembling the *common seal* without the authority of *Council*;

Penalty: 10 penalty units

- (b) a person to inscribe upon a petition or joint letter a name or signature purporting to be the name or signature of another person;

Penalty: 5 penalty units

- (c) any person, including a Councillor, who is guilty of any improper or disorderly conduct, to not leave the Chamber when requested by the *Chair* to do so; or

Penalty: 2 penalty units

- (d) any person to fail to comply with a direction of the *Chair* in relation to the conduct of the meeting and the maintenance of order

Penalty: 2 penalty units.

The penalty units set out in this sub-clause and elsewhere (eg clause 87(4)) represent the maximum amount, which a Court can order a person to pay. Even then, it requires a prosecution to be brought against the person in the Magistrates' Court. An alternative to prosecution is the infringement notice procedure outlined in sub-clause (2).

- (2) An *authorised officer* may, as an alternative to prosecution, issue an infringement notice in accordance with the *Infringements Act 2006* and associated regulations to any person who has committed an offence against this Local Law.
- (3) The fixed penalty in respect of an on the spot infringement is the amount set out in Schedule 1.
- (4) Any infringement notice issued to a person under this Local Law may be served on or given to the person by:
 - (a) delivering the notice to the person;
 - (b) leaving the notice at his or her usual or last known place of residence or business with a person apparently over the age of 16 years and apparently residing or employed at that place; or
 - (c) sending the document by post addressed to the person at his or her last known place of residence or business.

- (5) The relevant *authorised officer* may withdraw the infringement notice within 28 days after its date by sending a notice to the person on whom the infringement notice was served.
- (6) If the person pays the penalty before the infringement notice is withdrawn, the person is entitled to a refund of the penalty.
- (7) If the person pays the penalty within the time specified in the notice or, if the relevant *authorised officer* allows, before a summons is served on the person in respect of the infringement, the following provisions apply:
 - (a) further proceedings for an offence are not to be taken against the person; and
 - (b) there is to be no conviction recorded against the person for the infringement.
- (8) A penalty paid under this clause must be applied as if the person who paid it was convicted of the infringement in a Magistrates' Court on the information of a person authorised by *Council* to bring proceedings on its behalf.
- (9) If a person served with an infringement notice has not paid the penalty within the time specified in the notice or any extension of that time or if an infringement notice is not withdrawn proceedings may still be taken or continued to prosecute the alleged offence.
- (10) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (11) A person issued with an infringement notice is entitled to disregard the infringement notice and defend any prosecution in court.

92. 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 clause 25(1) and 25(2) apply.

93. 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 Local Law and whom the *Chair* has ordered to be removed from the meeting under clause 90 of this Local Law.

DIVISION 14 – ADDITIONAL DUTIES OF CHAIR

94. The *Chair's* duties and discretions

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

- (a) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (b) must ensure silence is preserved by all other persons while a Councillor or other speaker is addressing the meeting;
- (c) 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;
- (d) must call to order any person who is disruptive or unruly during any meeting; and
- (e) 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

95. Suspension of standing orders

- (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.

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

"That standing order be suspended to enable discussion on....."
- (3) No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.

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

"That standing orders be resumed."

DIVISION 16 – MISCELLANEOUS

96. Procedure not provided in Local Law

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

97. Policies and guidelines

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

DIVISION 17 – SPECIAL AND ADVISORY COMMITTEES

98. Application to *Special Committees* generally

- (1) If *Council* establishes a *Special Committee* composed solely of Councillors, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Special Committee*.
- (2) For the purposes of sub-clause (1), a reference in Division 1-16 of this Local Law to:
- (a) a *Ordinary meeting* of *Council* is to be read as a reference to a meeting of the *Special Committee*;
 - (b) a Councillor is to be read as a reference to a member of the *Special Committee*; and
 - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Special Committee*.

99. Application to *Special Committees* specifically

Notwithstanding clause 98, if *Council* establishes a *Special Committee* composed solely of Councillors:

- (a) *Council* may; or

(b) the *Special Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-16 is or are (as appropriate) not to apply, whereupon that provision or those provisions will not apply until *Council* resolves, or the *Special Committee* with the approval of *Council* resolves, otherwise.

100. Application to *Advisory Committees* generally

- (1) If *Council* establishes an *Advisory Committee*, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Advisory Committee*.
- (2) For the purposes of sub-clause (1) a reference in Division 1-16 of this Local Law to:
- (a) a *Council meeting* is to be read as a reference to a meeting of the *Advisory Committee*;
 - (b) a Councillor is to be read as a reference to a member of the *Advisory Committee*; and
 - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Advisory Committee*.

101. Application to *Advisory Committees* specifically

Notwithstanding clause 100, if *Council* establishes an *Advisory Committee*:

- (a) *Council* may; or
- (b) the *Advisory Committee* may, with the approval of *Council*

resolve that any provision(s) of Divisions 1-16 is or are (as appropriate) not to apply, whereupon that provision or those provisions will not apply until *Council* resolves, or the *Advisory Committee* with the approval of *Council* resolves, otherwise.

102. Adoption of recommendation

If a recommendation of a *Special Committee* is adopted by *Council*, what has been recommended becomes a resolution of *Council*.

The resolution for the making of this Local Law was agreed to by Frankston City Council on
xxxxxxxxxxxxxxxxxxxxxxxxxxxx 201x.

The Common Seal of **FRANKSTON CITY**)
COUNCIL was affixed this day of)
201x in the presence of:)

..... Mayor/Councillor

..... Chief Executive Officer

Schedule 1
Governance Local Law No. 1
Penalties Fixed for Infringement Notices

Local Law Provision	Offence	Penalty Units
87(4)	Recording meeting without prior approval	5
88	Displaying certain objects or words or obstructing entrance to Council Chambers or building	5
91(1)(a)	Using the <i>common seal</i> or replica without authority	10
91(1)(b)	Fraudulently signing a petition or joint letter	5
91(1)(c) and (d)	Call to Order – Failing to comply with a direction of the <i>Chair</i>	2

Executive Summary**4.2 Review of Councillor Code of Conduct**

Enquiries: (Brianna Alcock: Corporate Development)

Council Plan

Community Outcome:	3. A Well Governed City
Strategy:	3.1 Accountable Governance
Priority Action	3.1.1 The elected representatives will provide clear and unified direction, transparent decision makers and good governance

Purpose

For Council to approve and adopt amendments to the Councillor Code of Conduct.

Recommendation (Director Corporate Development)

- (i) That Council, having reviewed the Councillor Code of Conduct which is attached to this report, approves and adopts the following inclusions to the document:

1. Listing items on the Councillor briefing schedule

- A) Add new clause 3.5 – *The Mayor will liaise with Councillors about items to be listed on the Councillor briefing schedule. Councillors may also raise items for briefing directly with the Chief Executive Officer or the Director Corporate Development.*

OR

- B) Do not add new clause 3.5.

2. Clarifying the role of a Councillor

- A) Add new clause 5.4 – *The role of a Councillor does not include the performance of functions that are the responsibility of the Council administration. Councillors perform a vital role through their participation in Council's decision-making functions; in a properly constituted Council meeting, Councillors approve the Council's procurement policy and make decisions about the awarding of significant contracts. However, Councillors do not have a role in the day to day administration of the procurement policy and must not attempt to influence the procurement process. Councillors must not perform project management or contract management duties, or become involved in operational tasks.*

OR

- B) Do not add new clause 3.5.

3. Requirement to attend a meeting called by the Mayor

- A) Add new clause 5.6 – *If the Mayor calls a meeting for the purpose of providing guidance to a Councillor or Councillors (in accordance with the functions of the Mayor described in section 73AA of the Act), the Councillor or Councillors must attend the meeting.*

OR

- B) Do not add new clause 5.6.

4.2 Review of Councillor Code of Conduct**Executive Summary****4. Requirement to declare gifts on Gifts Register**

- A) Replace clause 9.2 (a) with amended wording as follows – *where a gift is accepted with a value equal to or above \$150, be mindful of the potential for a gift to give rise to the perception of being an attempt to gain favourable treatment, and ensure for transparency and accountability purposes that the gift is recorded in Council's Gifts Register noting whether the gift was retained or handed to the Council;*

OR

- B) Retain existing clause 9.2 (a) which reads – *where a gift equal to or above the gift disclosure threshold is accepted, ensure for transparency and accountability purposes that the gift is recorded in Council's Gifts Register.*

5. Use of social media

- A) Replace clause 9.4 with amended wording as follows – *Use of social media*
In addition to the Communication provisions above, the following provisions apply to the use of all forms of social media. When using social media, Councillors will endeavour to maintain an appropriate separation between their role and duties as a Councillor and their life as a private citizen. On any social media account on which a Councillor may discuss matters relevant to Council, the Councillor will include in the header of the account a statement that they are providing their own individual comment and are not speaking for or on behalf of Frankston City Council. When using any social media which enables them to be identified as a Councillor of the Council, a Councillor will not:

- a) *imply that they are authorised to speak on behalf of the Council, or give the impression that their expressed views are those of the Council;*
- b) *post, make comment or endorse (for example 'like') material that is offensive, obscene, defamatory, damaging, deceptive, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, that infringes copyright or privacy, that constitutes a contempt of court, that breaches a court suppression order or is otherwise unlawful;*
- c) *use or disclose confidential information obtained in their capacity as a Councillor; or*
- d) *make any comment, post or endorse any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.*

Where a Councillor has a social media account that refers to them as a Councillor, in accordance with Council's Election Period Policy this account must be deactivated and may only be reactivated upon the individual being officially sworn in as a Councillor of Frankston City Council.

OR

- B) Retain existing clause 9.4 which reads – *Personal Use of Social Media*
In addition to the Communication provisions above, the following provisions apply to the use of all forms of social media. When using any social media which enables them to be identified as a Councillor of the Council, a Councillor will not:

4.2 Review of Councillor Code of Conduct**Executive Summary**

- a) *imply that they are authorised to speak on behalf of the Council, or give the impression that their expressed views are those of the Council;*
- b) *post, make comment or endorse (for example 'like') material that is offensive, obscene, defamatory, damaging, deceptive, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, that infringes copyright or privacy, that constitutes a contempt of court, that breaches a court suppression order or is otherwise unlawful;*
- c) *use or disclose confidential information obtained in their capacity as a Councillor; or*
- d) *make any comment, post or endorse any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.*

6. Disqualification for conflicting duties in State or Federal Parliament

- A) *Add new clause 9.9 a) – Councillors note that section 28A of the Act disqualifies an individual from being a Councillor if they are employed as a Ministerial officer, a Parliamentary adviser or an electorate officer by a member of the Parliament of Victoria or in a corresponding position (however designated) by or for a member of the Parliament of the Commonwealth of Australia or of another State or Territory of the Commonwealth.*

OR

- B) *Do not add new clause 9.9 a).*

7. When a Councillor must declare intended candidacy

- A) *Replace clause 9.9 b) with amended wording as follows - c) A Councillor who is a prospective candidate will declare his or her intended candidacy at a meeting of the Council as soon as practicable after forming the intention to nominate and will then notify the Mayor, Councillors and Chief Executive Officer.*

OR

- B) *Retain wording in existing clause 9.9 b) which reads - A Councillor who is a prospective candidate will declare his or her intended candidacy at a meeting of the Council as soon as practicable after notifying the Mayor, Councillors and Chief Executive Officer.*

8. Access to documents and information

- A) *Add new clause 9.11 – Access to documents and information - Councillors are entitled to request documents and information relevant to an issue before, or concerning, Council. Such documents and information will be supplied in a manner that complies with Council's privacy obligations. A Councillor's request for access to Council documents will be made to the CEO or relevant Director. A Councillor will not access Council files or documents outside the formal process.*

OR

- B) *Do not add new clause 9.11.*

4.2 Review of Councillor Code of Conduct**Executive Summary****9. Access to Council offices**

A) *Add new clause 9.12 – Access to Council offices – Councillors are entitled to access all civic areas, the Councillors’ office and Councillors’ lounge area, the Mayor’s office, the common areas adjoining the offices of the Mayor and CEO, the Council Chamber and all meeting rooms, in the performance of their official duties and functions. However, a Councillor must not access a staff member’s office or work station unless in the presence of the staff member. Councillors who are not undertaking official duties and functions have the same rights of access to Council buildings and premises as any other member of the public.*

OR

B) *Do not add new clause 9.12.*

10. Grievance resolution procedure

The revised grievance resolution procedure is noted.

- (ii) *That the draft Councillor Code of Conduct 2018 be finalised in accordance with Council’s resolution in relation to each of the points in item (i) above.*
- (iii) *That each Councillor makes a written declaration before the Chief Executive Officer stating that they will abide by the new Councillor Code of Conduct.*

Key Points / Issues

- At Ordinary Meeting OM303 which commenced on 3 July 2017, Council indicated a desire to review its Councillor Code of Conduct.
- Councillors’ desired amendments to the document have been discussed in a series of Councillor workshops and briefings over the past 12 months. Where a reasonable level of consensus was apparent, Councillors’ input have been incorporated into the attached draft new Councillor Code of Conduct.
- [Attachment A](#) is the draft new Councillor Code of Conduct highlighting the proposed changes.
- [Attachment B](#) is the draft new Councillor Code of Conduct without proposed changes highlighted.
- Key changes include:
 - Use of social media;
 - Declaring gifts valued at or above \$150;
 - Notification of intended candidacy in a State or Federal election;
 - Access to Council documents and information;
 - Access to staff offices and work areas;
 - Removal of the provision about when the Chair may speak to a motion – this has been removed from the Code of Conduct because this matter is covered by clause 35(3) of the existing Governance Local Law (or by clause 36(3) of the draft new Governance Local Law); and
 - A substantial rewrite of the grievance resolution procedure.

4.2 Review of Councillor Code of Conduct**Executive Summary**

- A more comprehensive description of the changes is set out in a table which is included in the Officers Assessment below.
- During the Councillor briefings no issues have been raised about the rewritten grievance resolution procedure. However there has been a divergence of views on some other provisions in the draft Councillor Code of Conduct, so the officer recommendation has been prepared to facilitate Council's decision making on each of these provisions.
- Council now has the opportunity to resolve to approve some or all of the amendments to the Councillor Code of Conduct.
- The amendments resolved upon by Council will be incorporated into a final Councillor Code of Conduct. Each Councillor will then be asked to make a written declaration before the CEO stating that they agree to abide by the new Councillor Code of Conduct 2018.

Financial Impact

The State Government has introduced the "Fair Go Rates" system, placing a cap on Council rates which has restricted the level of increases that Council can apply to its rate revenue. Rate revenue constitutes 63 per cent of all Council revenue.

The rate cap over the past two financial years has been 2.5 per cent and 2.0 per cent respectively and will be 2.25 per cent in 2018-2019.

The rate cap percentages are based on the consumer price index which relates to the average increase in the prices of a range of goods and services, very few of which apply to the cost drivers of providing local government services. The cost of providing Council services has been increasing well in advance of the rate cap applied by State Government.

Over time this trend may lead to a reduction in the levels of service provided to the community and in Councils ability to fund both new facilities and the ongoing renewal of existing facilities.

Council will continue to evaluate the impacts of rate capping annually and needs to be mindful of these outcomes in all Council decisions.

There are no financial implications associated with this report.

Consultation**1. External Stakeholders**

The draft document has been reviewed by Council's Audit and Risk Management Committee and the Municipal Monitor.

The Municipal Monitor provided some detailed comments which have informed various amendments to the provisions regarding gifts and hospitality and the provisions about the candidature of Councillors in State and Federal elections. The grievance resolution provisions have been substantially rewritten to take into account matters raised by the Monitor and any learning derived from managing grievances under the current adopted Councillor Code of Conduct.

2. Other Stakeholders

Councillor input has been obtained and incorporated into the document.

4.2 Review of Councillor Code of Conduct**Executive Summary****Analysis (Environmental / Economic / Social Implications)**

The Councillor Code of Conduct is a key element of Council's governance arrangements. It is important that Councillors support the content of their Code of Conduct because the Code articulates the expected standards of behaviour and provides a framework of rules and relationships, systems and processes which contribute to the effective operation of the Council, and assist in the resolution of any issues that might arise.

Legal / Policy / Council Plan ImpactCharter of Human Rights and Responsibilities

All matters relevant to the Charter of Human Rights and Responsibilities have been considered in the preparation of this report; this report is consistent with the standards set by the Charter.

Legal

Sections 76C and 81AA of the *Local Government Act* 1989 set out the legislative requirements in relation to a Councillor Code of Conduct. Whilst there is no legal requirement for the current Council to undertake a further review of its Code of Conduct, it is open to Council to do so.

Policy Impacts

Not applicable.

Officer's Declaration of Interests

Council officers involved in the preparation of this report have no conflict of interest in this matter.

Risk Mitigation

Not applicable.

Conclusion

Council, through its resolution at OM303, indicated a desire to review the Councillor Code of Conduct. In a series of workshops Councillors have discussed their desired amendments to the Code of Conduct. These amendments have been incorporated into the draft Councillor Code of Conduct 2018 which is now presented to Council for formal review and approval. If the proposed amendments are approved, each Councillor will be asked to make a written declaration before the CEO stating that they agree to abide by the new Councillor Code of Conduct 2018.

ATTACHMENTS

- Attachment A:[↓](#) Draft new Councillor Code of Conduct 2018 - marked up
Attachment B:[↓](#) Draft new Councillor Code of Conduct 2018 - clean copy for adoption

4.2 Review of Councillor Code of Conduct Officers' Assessment

Background

The existing Councillor Code of Conduct was adopted by Council on 20 February 2017. It is mandatory for each Council to review its Code of Conduct within 4 months after a general election, but a Council may review its Code of Conduct at any time thereafter, as it sees fit.

Issues and Discussion

- The key changes proposed to the Councillor Code of Conduct are described in the table below:

Para	Description of change
3.4 b)	Deletion of subclause b): when the Mayor may speak to a motion – this is dealt with in clause 36(3) of the draft new Governance Local Law.
3.5	New provision: Mayor to liaise with Councillors re items to be listed on Councillor briefing schedule.
5.4	New provision: Councillors perform a vital role in making decisions and developing policies and strategies, and must not perform operational, procurement, contract management or project management tasks.
5.6	New provision: a Councillor must attend a meeting called by the Mayor for the purpose of providing guidance to the Councillor about conduct matters (this is to facilitate the Mayor's performance of the 'Functions of Mayor' set out in section 73AA of the Local Government Act 1989).
9.2	New provision: requirement to declare gifts with value equal to or above \$150, and clarification of the content to be included in a gift declaration.
9.4	New provisions re use of social media, included to clarify expectations and create alignment with Council's adopted Communications Policy.
9.9	Amendment: wording re disqualification if employed as an electorate officer or member of staff for State or Federal MP – the wording in subclause a) now aligns with that used in section 28A of the Local Government Act. Minor amendment to the wording in subclause c) to require notification of intended candidacy to be given "as soon as practicable after forming the intention to nominate".
9.11	New provision: access to Council documents and information.
9.12	New provision: access to staff offices and work areas.

4.2 Review of Councillor Code of Conduct

Officers' Assessment

Para	Description of change
11	<p>Substantive re-write of Grievance Resolution Procedure to address various issues identified with the current procedure. The main changes proposed are:</p> <ul style="list-style-type: none"> • Removal of “step 2 – Councillors only meeting”. • Deletion of grievance resolution sub-committee – instead, the Deputy Mayor will perform the functions of the Mayor if necessary and appropriate. There is also an alternative process to appoint a past Mayor or past Deputy Mayor if both the Mayor and Deputy Mayor are parties to the grievance. • Clarification of record keeping and administrative arrangements. • Clarification of the role of a support person. • Streamlining of the process for appointing a mediator / arbiter. • Clarification of the process and requirements for a grievance to move from one step to the next.

Additional changes for consideration

- Following the most recent briefing, a Councillor request was made to strengthen the provisions to deter and prevent the leaking by Councillors of confidential information. Clause 10.3 of the Code of Conduct partially replicates the Confidential Information provisions in section 77 of the Act. The leaking of confidential information by a Councillor could constitute a breach of the Act which carries a penalty of 120 penalty units and could lead to a finding of serious misconduct. If the information leaked included the personal or health related information of any person, the Councillor concerned could also be individually liable for a privacy breach under the Privacy and Data Protection Act 2014 or the Health Records Act 2001. Any amendment to the Code of Conduct provisions in relation to confidential information would need to be carefully considered in light of existing measures.
- A further Councillor request has been made to include ward meetings as an aspirational activity for Councillors and the CEO. This has not been included in the draft, but can be added if Council so resolves.



Frankston City Council

Councillor Code of Conduct 201~~7~~⁸

DRAFT 28 May 2018

In this draft:

Black font shows content that is unchanged from the current adopted version.

~~Red strikethrough font shows proposed deletions from the current adopted version.~~

Blue font shows proposed additions to the current adopted version.

Note that the grievance resolution procedure has been substantially redrafted in this version.

1.	PURPOSE AND COMMITMENT	1
2.	OBJECTIVES, ROLES AND RESPONSIBILITIES OF THE COUNCIL.....	2
3.	ROLE OF THE MAYOR.....	2
4.	ROLE OF THE DEPUTY MAYOR.....	3
5.	ROLE OF COUNCILLORS	3
6.	FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.....	4
7.	COUNCILLOR CONDUCT PRINCIPLES	5
7.1	Primary principle	5
7.2	General principles.....	5
7.3	Frankston-specific Councillor conduct principles.....	6
7.3.1	Objectivity and transparency	6
7.3.2	Teamwork.....	6
7.3.3	Meetings with applicants for proposed developments	7
7.3.4	Ethical decision-making.....	7
8.	INTERACTIONS WITH COUNCIL STAFF.....	7
9.	OTHER OBLIGATIONS.....	8
9.1	Use of Council resources	8
9.2	Gifts and hospitality.....	8
9.3	Communication	9
9.4	Use of social media	10
9.5	Personal dealings with Council.....	10
9.6	Charter of Human Rights	11
9.7	Privacy and the handling of personal and health information.....	11
9.8	Freedom of Information	11
9.9	Candidature of Councillors in State or Federal elections.....	11
9.10	Compliance with Election (Caretaker) Period Policy	12
9.11	Access to documents and information.....	12
9.12	Access to Council offices.....	12
10.	PROHIBITED CONDUCT	13
10.1	Misuse of position	14
10.2	Improper direction	14
10.3	Confidential information	15
10.4	Conflict of interest.....	16
11.	GRIEVANCE RESOLUTION PROCEDURE	17

1. PURPOSE AND COMMITMENT

1.1 The performance of the Council and the wellbeing of the Frankston community are directly affected by the conduct of the City's elected Councillors; accordingly, the community is entitled to expect that:

- a) the business of the Council is conducted with efficiency, impartiality and integrity;
- b) Councillors obey the spirit and letter of the law, and in particular, the provisions of relevant statutes, regulations, local laws and other instruments; and
- c) responsibility to the community is always given absolute priority over the private interests of Councillors.

The important leadership role of Councillors is recognised in, the *Local Government Act 1989* (the Act), which describes how the Council is to be accountable in the performance of its functions, the exercise of powers and the use of resources. The Act specifies the role, function and objectives of Council, Councillors and the Chief Executive Officer.

1.2 This Councillor Code of Conduct has been adopted in satisfaction of the requirements of the Act and is binding on all Councillors to:

- a) specify the standard of conduct expected of Frankston City Council's elected representatives;
- b) foster constructive working relationships between Councillors, to enable Councillors to work together in the best interests of the community; and
- c) mandate legal, ethical and appropriate Councillor conduct that will build public confidence in the integrity of local government.

1.3 The Mayor, Deputy Mayor and Councillors commit to carrying out their role to the highest standards of conduct and behaviour. As part of this commitment, all Councillors will adhere to the conduct principles, values and processes outlined in the Councillor Code of Conduct. This will attract the highest level of confidence from Council's community and stakeholders, assist Councillors to carry out their role, and provide a means for dealing with a range of situations which may occur.

1.4 References:

- *Local Government Act 1989* ("Act")
- *Privacy and Data Protection Act 2014*
- *Health Records Act 2001*
- *Protected Disclosure Act 2012*
- *Freedom of Information Act 1982*
- *Independent Broad-based Anti-corruption Commission Act 2011*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Winky Pop v Hobsons Bay City Council* (Victorian Supreme Court, 2007)
- relevant policy documents adopted by Council, eg. Election Period Policy, Councillor Entitlements and Expenses Policy, Communications Policy.

2. OBJECTIVES, ROLES AND RESPONSIBILITIES OF THE COUNCIL

- 2.1 Frankston City is governed by nine Councillors who are democratically elected in accordance with the Act. Collectively, they constitute the Council. The primary objective and role of Council is established in sections 3C and 3D of the Act. Councillors commit to work collaboratively by:
- a) respecting the right of each Councillor to speak and represent their views on the needs of members of the community;
 - b) speaking well of each other and the Council in public, including in social media;
 - c) demonstrating commitment to consult with other Councillors, within the decision making framework and with no surprises;
 - d) respecting the diverse needs, views and nature of the greater Frankston community;
 - e) supporting and having regard for the role of local government as an important level of government within Australia;
 - f) ensuring a consultative approach to solving problems, developing effective decisions and communicating outcomes that build teamwork and cooperation;
 - g) demonstrating leadership by focusing on issues and refraining from personalising matters particularly in relation to making personal remarks regarding other Councillors; and
 - h) respecting each Councillor's right to hold different views and engage in constructive debate on matters of difference, while being united in representing Council decisions.
- 2.2 The role of Councillors is to set the vision for the City which requires a focus on strategy and policy development. The role of the Chief Executive Officer is to implement the decisions and ultimately the vision of Council.

3. ROLE OF THE MAYOR

- 3.1 Section 73AA of the Act describes the functions of the Mayor as including:
- a) providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C;
 - b) acting as the principal spokesperson for the Council;
 - c) supporting good working relations between Councillors; and
 - d) carrying out the civic and ceremonial duties of the office of Mayor.
- 3.2 The governance of the Council is the responsibility of the Councillors collectively. The Mayor is "first-among-equals". While the Mayor does not have executive authority, Councillors acknowledge and respect that the Mayor has been elected by Councillors to lead the Councillor group and represent the Council. Accordingly Councillors agree to co-operate with the Mayor of the day in the fulfilment of the Mayoral leadership role.

3.3 The Mayor is responsible for chairing Council meetings, and in doing so will:

- a) retain control of the meeting at all times;
- b) be impartial;
- c) preserve order; and
- d) ensure that the business of the meeting is conducted in a proper and efficient manner, and in accordance with any applicable Local Law.

3.4 Accordingly the Mayor:

- a) will first and foremost at all times reflect the will of the Council while in the chair and performing all other official duties;
- b) may only debate a motion by speaking immediately after the mover and seconder of the motion have been given the opportunity to speak to the motion. Where the Mayor wishes to move or second a motion, he or she must vacate the chair;
- c) is the official spokesperson for the Council regarding decisions made by the Council and advocacy with government.

3.5 The Mayor will liaise with Councillors about items to be listed on the Councillor Briefing Schedule. Councillors may also raise items for briefing directly with the Chief Executive Officer or the Director Corporate Development.

4. ROLE OF THE DEPUTY MAYOR

Where the Mayor is absent or otherwise unable to fulfil their duties, the Deputy Mayor will perform the duties ascribed to the Mayor, unless the Deputy Mayor has a conflict of interest or is unavailable.

5. ROLE OF COUNCILLORS

5.1 Section 65 of the Act provides that the role of a Councillor is:

- a) to participate in the decision-making of the Council;
- b) to represent the local community in that decision-making; and
- c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

5.2 In performing the role of a Councillor, a Councillor must:

- a) consider the diversity of interests and needs of the local community;
- b) observe principles of good governance and act with integrity;
- c) provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the Act and other Acts;
- d) participate in the responsible allocation of the resources of the Council through the annual budget; and

- e) facilitate effective communication between the Council and the community.
- 5.3 The role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A.
- 5.4 The role of a Councillor does not include the performance of functions that are the responsibility of the Council administration. Councillors perform a vital role through their participation in Council's decision-making functions; in a properly constituted Council meeting, Councillors approve the Council's procurement policy and make decisions about the awarding of significant contracts. However, Councillors do not have a role in the day to day administration of the procurement policy and must not attempt to influence the procurement process. Councillors must not perform project management or contract management duties, or become involved in operational tasks.
- 5.5 Councillors must respect the Chair at all times during a meeting (including an Assembly of Councillors), and must observe any lawful direction given by the Mayor.
- 5.6 If the Mayor calls a meeting for the purpose of providing guidance to a Councillor or Councillors (in accordance with the functions of the Mayor described in section 73AA of the Act), the Councillor or Councillors must attend the meeting.

6. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER

- 6.1 The functions of the Chief Executive Officer are specified in section 94 of the Act. The Chief Executive Officer is responsible for—
 - a) establishing and maintaining an appropriate organisational structure for the Council;
 - b) ensuring that the decisions of the Council are implemented without undue delay
 - c) the day to day management of the Council's operations in accordance with the Council Plan;
 - d) developing, adopting and disseminating a code of conduct for Council staff
 - e) providing timely advice to the Council;
 - f) ensuring that the Council receives timely and reliable advice about its legal obligations under the Act and any other Act;
 - g) supporting the Mayor in the performance of the Mayor's role as Mayor;
 - h) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013; and
 - i) performing any other function or duty of the Chief Executive Officer specified in the Act or any other Act.
- 6.2 Within the budget parameters set by the Council, the Chief Executive Officer may appoint as many members of Council staff as are required to perform the functions of the Council under the Act and any other Act, and to enable the Chief Executive Officer to carry out her or his functions.

- 6.3 The Chief Executive Officer is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff.
- 6.4 The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.
- 6.5 Good governance depends upon a clear understanding and agreement about the different roles and responsibilities within a council. Councillors acknowledge that those who govern and those who manage must work together in order to produce the best outcomes for the community over the long term.
- 6.6 Councillors undertake to respect the functions of the Chief Executive Officer and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the Chief Executive Officer.
- 6.7 The Chief Executive Officer is the official spokesperson for the Council regarding operational matters.

7. COUNCILLOR CONDUCT PRINCIPLES

Councillors will observe and demonstrate the standards of conduct that the community has a right to expect of them. These standards are the 'Councillor Conduct Principles' which are described in the Act and include the following 'Primary Principle' and seven 'General Principles'.

7.1 Primary principle

Section 76B of the Act sets out the primary principle of Councillor conduct that in performing the role of a Councillor, a Councillor must –

- a) act with integrity;
- b) impartially exercise his or her responsibilities in the interests of the local community; and
- c) not improperly seek to confer an advantage or disadvantage on any person.

7.2 General principles

Section 76BA of the Act specifies that in addition to acting in accordance with the primary principle of Councillor Conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;
- e) endeavour to ensure that public resources are used prudently and solely in the

public interest;

- f) act lawfully and in accordance with the trust placed in him or her as an elected representative; and
- g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

7.3 Frankston-specific Councillor conduct principles

As community and civic leaders with responsibility for the Council's decision-making structure, Councillors will lead by example and promote the highest standards in the way Council business is conducted.

In carrying out their role, Councillors will embrace and demonstrate Council's values which foster a spirit of working together for Frankston. In challenging and inspiring each other to realise their vision for the City, Councillors will demonstrate and commit to the following additional (Frankston-specific) Councillor Conduct Principles.

7.3.1 Objectivity and transparency

Councillors will conduct themselves in all decisions and actions professionally and ethically and will take responsibility for actions in an honest and transparent way. Councillors will:

- a) make all decisions solely on merit; and
- b) be as transparent as possible about their decisions and actions, giving reasons for their decisions, only restricting information as required by law or where the wider public interest requires such restriction.

7.3.2 Teamwork

There are nine members of the Council, who are democratically elected representatives of the Frankston community. Councillors will:

- a) acknowledge and embrace political, social, cultural and personal diversity. Nothing within the Code of Conduct will in any way impinge on the individual's right to express themselves in keeping with their own personal political, social or cultural beliefs and customs, provided that such expression of individualist belief and actions is at all times consistent with the expectations of a Councillor's behaviour, as stipulated in the Code of Conduct;
- b) contribute towards the Councillor group working its way towards a collective decision;
- c) make decisions in Council meetings, recognising that in discussions leading up to such decisions, for example in Assemblies of Councillors not open to the public, Councillors may explore a range of positions and express a range of views;
- d) not report the views expressed by fellow Councillors in meetings closed to the public, outside of those meetings. To do so would discourage full discussion of developing issues and the ability for Councillors to firm up their views as questions are answered and information provided;
- e) be accountable for their vote and statements in support of their

vote at the time that the matter is decided in the Council meeting;
and

- f) encourage and permit all Councillors to develop and grow their personal attributes, skills and expertise in the role of Councillor.

7.3.3 Meetings with applicants for proposed developments

Councillors will ensure that all communications and conversations (including, but not limited to, meetings, emails and telephone calls) with the developer / applicant / consultant for any development proposed within the Frankston municipality, regarding the proposed development, will occur in the presence of at least two members of Council staff.

For the purposes of this clause, “developer / applicant / consultant” means a party with a town planning application under consideration in the Frankston municipality, where the total sum of works exceeds \$100,000.

7.3.4 Ethical decision-making

If Councillors are unsure about the ethical issues involving an action or decision, consideration should be given to the following:

- a) Is the decision or conduct lawful?
- b) Is the decision or conduct consistent with the Council’s policies and objectives, and with this Code of Conduct?
- c) What will the outcome be for the community, the Council, a Councillor(s) and any other parties?
- d) Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- e) Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?
- f) In the event of any uncertainty about the ethical nature of any action or decision, Councillors should seek advice in the first instance from the Mayor and/or the Chief Executive Officer, the Chair of the Audit and Risk Management Committee, the Victorian Local Governance Association or Local Government Victoria.

8. INTERACTIONS WITH COUNCIL STAFF

8.1 Councillors acknowledge that section 95 of the Act requires Council staff to:

- a) act impartially;
- b) act with integrity including avoiding conflicts of interest;
- c) accept accountability for results; and
- d) provide responsive service.

8.2 When interacting with Council staff, Councillors will:

- a) recognise that all staff members are accountable to the Chief Executive Officer;
- b) respect that, pursuant to section 94A of the Act, the Chief Executive Officer is

- responsible for appointing, directing, managing and dismissing all Council staff, and for all other issues that relate to Council staff;
- c) recognise that a professional and well-managed team of managers and staff is essential to the wellbeing of the community;
 - d) not direct, or seek to direct or influence a member of Council staff in the exercise or in the performance of a delegated duty or function, in an office or position the staff member holds, or in relation to advice provided to Council;
 - e) interact with staff in a respectful, courteous manner that is not (or not likely to be) intimidatory;
 - f) not impede the ability of Council staff to give independent professional advice to Council;
 - g) recognise that a resolution of the Council is the appropriate mechanism to establish or amend Council policy. In the case of routine enquiries, however, a relevant member of the Executive Team (or the appropriate Executive Assistant) may be contacted for clarification;
 - h) adhere to any adopted Council policy or agreed protocols regarding interactions between staff and Councillors;
 - i) direct any concerns about the performance of any staff member or service unit to the Chief Executive Officer; and
 - j) agree that workplace bullying can and should be prevented. As a collective, Council will collaborate with staff and unions to institute and uphold policies to facilitate an environment free from physical and psychological violence.

9. OTHER OBLIGATIONS

9.1 Use of Council resources

Councillors undertake to use Council resources effectively and economically, and in accordance with any adopted policy or agreed protocols. Councillors will:

- a) maintain adequate security over Council property, facilities and resources provided to assist in the performance of Councillors' roles, and will comply with any Council policies applying to their use;
- b) declare that any expense claims submitted (including for out of pocket expenses or reimbursement for vehicle use) are accurate and relate strictly to Council business and activities, and comply with the relevant legislative provisions and Council policy;
- c) not use Council resources, including images and services of Council staff, for private or political purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- d) not use public funds or resources in a manner that is improper or unauthorised.

9.2 Gifts and hospitality

Notwithstanding any other policy, Councillors will scrupulously avoid situations giving rise to the perception that a person or body, through the provision of gifts or

hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

A **gift** means any disposition of property, other than by a will, made by a person to a Councillor without consideration in money or money's worth or with inadequate consideration, including:

- a) the provision of a service (other than volunteer labour);
- b) the payment of an amount in respect of a guarantee; and
- c) the making of a payment or contribution at a fundraising function.

The **gift disclosure threshold in the Act**, currently \$500, applies to a gift or gifts given to a Councillor by any person, company or body but does not include reasonable hospitality received by the Councillor at an event or function attended by the Councillor in an official capacity.

Councillors will:

- (a) where a gift is accepted with a value equal to or above \$150, be mindful of the potential for a gift to give rise to the perception of being an attempt to gain favourable treatment, and ensure for transparency and accountability purposes that the gift is recorded in Council's Gifts Register noting whether the gift was retained or handed to the Council;
- (b) take all reasonable steps to ensure that their immediate family members (parents, spouse, children and siblings) do not receive gifts or benefits that give rise to the perception of being an attempt to gain favourable treatment;
- (c) recognise that a gift or gifts equal to or above the statutory gift disclosure threshold (currently \$500) received during the period described in section 78C(1) of the Act from a person, company or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of the applicable gift or gifts; and
- (d) record all election campaign donations in their campaign donation return.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council. For transparency and accountability purposes, any such gift will be recorded in Council's Gifts Register with a notation that it is the property of the Council.

9.3 Communication

- a) Councillors recognise their responsibility, as representatives of the local community, to be responsive to community views and to adequately communicate the position and decisions of the Council.
- b) Councillors undertake to comply with the Council's communications policy and to respect the roles of the Mayor and Chief Executive Officer as the official spokespersons of the Council.
- c) Although any Councillor is entitled to communicate his or her views to the media, constituents and others, they should not in doing so:
 - (i) criticise or actively seek to undermine any decision or position already taken by the Council;

- (ii) bring the Council into disrepute; or
 - (iii) purport to speak on behalf of the Council, without authority.
- d) Where an individual Councillor chooses to express a personal opinion through the media, they will:
 - (i) make it clear that any such comment is a personal view and does not represent the position of Council; and
 - (ii) ensure that any such comment could not reasonably be construed as being derogatory, offensive or insulting to any person.

9.4 ~~Personal u~~Use of social media

In addition to the Communication provisions above, the following provisions apply to the use of all forms of social media.

~~Councillors may utilise their own social media accounts (personal and/or representing themselves as a Councillor of Frankston City).~~ When using social media, Councillors will endeavour to maintain an appropriate separation between their role and duties as a Councillor and their life as a private citizen.

On ~~all~~ any social media accounts on which a Councillor may discuss matters relevant to Council, the Councillors ~~must~~ will include in the header of the account a statement that they are providing their own individual comment and are not speaking for or on behalf of Frankston City Council.

When using any social media which enables them to be identified as a Councillor of the Council, a Councillor will not:

- a) imply that they are authorised to speak on behalf of the Council, or give the impression that their expressed views are those of the Council;
- b) post, make comment or endorse (for example 'like') material that is offensive, obscene, defamatory, damaging, deceptive, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, that infringes copyright or privacy, that constitutes a contempt of court, that breaches a court suppression order or is otherwise unlawful;
- c) use or disclose confidential information obtained in their capacity as a Councillor; or
- d) make any comment, post or endorse any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.

Where a Councillor has a social media account that refers to them as a Councillor, in accordance with Council's Election Period Policy this account must be deactivated and may only be reactivated upon the individual being officially sworn in as a Councillor of Frankston City Council.

9.5 Personal dealings with Council

When Councillors deal with the Council in their private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) they will not expect, nor will they request, preferential treatment in relation to any such private matter.

Councillors will avoid any action that could lead Council staff or members of the public to believe that they are seeking preferential treatment.

9.6 Charter of Human Rights

Councillors acknowledge the human rights that are protected under the Victorian *Charter of Human Rights and Responsibilities Act 2006* ("the Charter"), and undertake to exercise their duties, so far as is possible, in a manner that is compatible with these human rights.

9.7 Privacy and the handling of personal and health information

Councillors acknowledge that the requirements of the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* apply to handling personal information and health related information about residents, staff and Councillors.

9.8 Freedom of Information

Councillors will fully cooperate with the Council's administration to ensure that the Council can meet its legislative obligations in relation to any request made under the *Freedom of Information Act 1982*.

9.9 Candidature of Councillors in State or Federal elections

In order to avoid community perception of the politicisation of local government resulting from Councillors running for office in State or Federal Parliament, Councillors will adhere to the provisions set out below:

- a) Councillors note that section 28A of the Act disqualifies an individual from being a Councillor if they are employed as a Ministerial officer, a Parliamentary adviser or an electorate officer by a member of the Parliament of Victoria or in a corresponding position (however designated) by or for a member of the Parliament of the Commonwealth of Australia or of another State or Territory of the Commonwealth.
- b) A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as a candidate for a State or Federal election ('a prospective candidate') will provide written advice to the Mayor, Councillors and Chief Executive Officer, as soon as practicable after the endorsement or expression of intention.
- c) A Councillor who is a prospective candidate will declare his or her intended candidacy at a meeting of the Council as soon as practicable after forming the intention to nominate and will then notify the Mayor, Councillors and Chief Executive Officer.
- d) A Councillor who nominates as a candidate for a State or Federal election ('a nominated candidate') will apply for leave of absence from the Council. This leave of absence should commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election ('the nomination date') and conclude no earlier than the close of voting for the election. During this period, a Councillor who is on leave of absence will not attend meetings of the Council or otherwise act as a Councillor. If a Councillor who is on leave of absence is invited to attend a private function due to their position as a Councillor, they will not use the function in relation to his or her candidacy.

- e) Council, upon receiving an application for a leave of absence from a Councillor who is a nominated candidate or who intends to become a nominated candidate, will approve that application.
- f) A Councillor who is a prospective candidate or a nominated candidate must take care when making public comment to differentiate between his or her role as a State or Federal election candidate and their role as a Councillor.
- g) A Councillor who is a nominated candidate will observe the requirements of the Council's most recent election period policy, from the nomination date until the close of voting for the State or Federal election in which they are running.
- h) A Councillor who is a prospective candidate or a nominated candidate will not use Council resources, including Council equipment and facilities, in relation to his or her candidacy.
- i) A Councillor who is a prospective candidate or a nominated candidate must not use Council activities, including committee meetings and Council-related external activities, in relation to his or her candidacy.

9.10 Compliance with Election (Caretaker) Period Policy

Councillors are committed to upholding the highest standards of governance during election periods, and therefore agree to abide by the requirements of the Frankston City Council Election Period Policy, as adopted by Council in accordance with section 93B of the Act.

Notwithstanding the above, Councillors acknowledge that an alleged contravention of the provisions in the Act relating to Councillor eligibility, electoral conduct and the election caretaker period would not be dealt with by Council using the Dispute Resolution Procedure in this Councillor Code of Conduct. Such an allegation would instead need to be referred to the Victorian Electoral Commission or the Local Government Investigations and Compliance Inspectorate (depending on the nature of the allegation) for investigation and any consequent action.

9.11 Access to documents and information

Councillors are entitled to request documents and information relevant to an issue before, or concerning, Council. Such documents and information will be supplied in a manner that complies with Council's privacy obligations. A Councillor's request for access to Council documents will be made to the CEO or relevant Director. A Councillor will not access Council files or documents outside the formal process.

9.12 Access to Council offices

Councillors are entitled to access all civic areas, the Councillors' office and Councillors' lounge area, the Mayor's office, the common areas adjoining the offices of the Mayor and CEO, the Council Chamber and all meeting rooms, in the performance of their official duties and functions. However, a Councillor must not access a staff member's office or work station unless in the presence of the staff member.

Councillors who are not undertaking official duties and functions have the same rights of access to Council buildings and premises as any other member of the public.

10. PROHIBITED CONDUCT

Councillors acknowledge that the Act specifies some types of conduct that is expressly prohibited. They relate to specific actions and are unlike the ‘Principles’, which describe how Councillors should conduct themselves in more general terms. These matters can be particularly relevant to considerations of misconduct or serious misconduct by a Councillor Conduct Panel or gross misconduct by the Victorian Civil and Administrative Tribunal. Councillors also acknowledge that, in many cases, a breach of a specific provision in the Act may be subject to prosecution in a Court.

The table below provides guidance about various types of prohibited conduct, and the entities that would be responsible for investigating such allegations against a Councillor:

Allegation	Definition	Who Can Apply / Report	Responsible Entity
Misconduct	Failure to comply with the Council’s internal resolution procedure; or Failure to comply with a written direction given by the Council under section 81AB; or Repeated contravention of any of the Councillor conduct principles.	Council (with Council resolution) A Councillor A group of Councillors	Councillor Conduct Panel
Serious misconduct	Failure to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or Failure to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or Failure to comply with a direction of a Councillor Conduct Panel; or Continued or repeated misconduct after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or Bullying of another Councillor or member of Council staff; or Conduct in respect of a member of Council staff in contravention of section 76E; or The release of confidential information in contravention of section 77.	Council (with Council resolution) A Councillor A group of Councillors Chief Municipal Inspector	Councillor Conduct Panel
Gross misconduct	Behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the office of Councillor.	Chief Municipal Inspector	VCAT

Breach of Local Government Act	Conduct including misuse of position; improper direction and improper influence; release or misuse of confidential information; failure to manage a conflict of interest.		Local Government Investigations and Compliance Inspectorate
Corrupt Conduct	Misuse of a person's position or power to obtain personal gain, either for themselves or others.	Any member of the public or the public sector may make a complaint, including as a protected disclosure.	Independent Broad-Based Anti-Corruption Commission (IBAC)
Breach of privacy or data security	Breach of privacy or data security, including inappropriate collection, release or disclosure of information relating to a person.	Any member of the public may make a complaint.	Commissioner for Privacy and Data Protection or the Health Services Commissioner
Criminal conduct	Suspected criminal conduct, including theft and assault.	Any person may make a complaint.	Victoria Police

10.1 Misuse of position

Section 76D of the Act creates the offence of misuse of position, and can apply even after a Councillor ceases to hold office. An offence occurs if a Councillor or former Councillor:

- a) gains or attempts to gain, directly or indirectly, an advantage for themselves or for any other person; or
- b) causes or attempts to cause, detriment to the Council or another person.

Circumstances which would involve a misuse of position by a Councillor include:

- a) making improper use of information acquired as a result of the position he or she held or holds;
- b) disclosing information that is confidential within the meaning of section 77 of the Act;
- c) directing or improperly influencing a member of Council staff, or trying to do so, in contravention of section 76E of the Act;
- d) exercising or performing, or trying to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- e) using public funds or resources in a manner that is improper or unauthorised; and
- f) failing to disclose a conflict of interest

10.2 Improper direction

Section 76E of the Act states that a Councillor must not improperly direct a member of Council staff in the exercise of any power or in the performance of any duty or function by that staff member. Nor must they attempt to do so.

It is an offence for a Councillor to direct or seek to direct a staff member:

- a) in the exercise of a delegated power, or the performance of a duty or function;
- b) in the exercise of a power, or performance of a duty or function as an authorised officer under any Act;
- c) in the exercise of any power or performance of a duty or function that the staff member exercises in an office or position held under another Act; or
- d) in relation to advice provided to the Council or a special committee.

This rule follows from the nature of local government and the broad range of powers given to Councils under many Acts. These powers are given to the Council as a whole and an individual Councillor only exercises powers when he or she votes in a Council or special committee meeting. An individual Councillor does not have the legal authority to instruct a member of Council staff or to direct the Council administration.

10.3 Confidential information

Section 77 of the Act provides that a Councillor must not release information that he or she knows, or should reasonably know, is confidential.

The section also sets out the ways in which information is made confidential. This includes where:

- a) the information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or
- b) the information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or
- c) the information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.

In accordance with Section 77(1A) a Councillor may disclose information that the he or she knows is confidential information in the following circumstances:

- a) for the purposes of any legal proceedings arising out of this Act;
- b) to a court or tribunal in the course of legal proceedings;
- c) pursuant to an order of a court or tribunal;
- d) to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
- e) to a Councillor Conduct Panel in the course of a hearing and for the purposes of the hearing;
- f) to a municipal monitor to the extent reasonably required by the municipal monitor; or
- g) to the extent reasonably required for any other law enforcement purposes.

10.4 Conflict of interest

Sections 77A to 80A of the Act require Councillors to disclose conflicts of interest:

- in Council meetings;
- in meetings of special committees;
- in audit committee and section 223 committee meetings; and
- in meetings that are classified as Assemblies of Councillors.

A Councillor has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the Councillor would be directly altered if the matter is decided in a particular way. This includes where there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms and where the Councillor and a member or members of the Councillor’s family have a controlling interest in a company or other body that has a direct interest in the matter.

A conflict of interest also exists where a Councillor has any of the six types of indirect interest. These indirect interests are:

Close association:	an indirect interest because of a close association with a family member, relative or member of the household who has a direct interest.
Indirect financial interest:	an indirect financial interest, including holding shares above a certain value in a company with a direct interest.
Conflicting duty:	a conflicting duty arising from having particular responsibilities to a person or organisation with a direct interest.
Applicable gift:	receipt of an applicable gift or gifts from a person or organisation with a direct interest.
Interested party:	a party to the matter by having become involved in civil proceedings in relation to the matter.
Residential amenity:	this occurs where there is a reasonable likelihood that the person’s residential amenity will be altered if the matter is decided in a particular way.

When declaring a conflict of interest at a meeting of a Committee or the Council, a Councillor must make a declaration immediately the item of business is introduced and identify the type and nature of the conflict.

In addition to the provisions contained in the Act relating to Assemblies of Councillors, Councillors will, when attending a meeting at which a Council staff member is present, disclose any conflicts of interest which, had the meeting been an Assembly of Councillors, they would have been required to disclose.

Councillors will also disclose any conflict of interest relating to any matters discussed at Councillor-only Sessions.

11. GRIEVANCE RESOLUTION PROCEDURE

This procedure prescribes the manner of dealing with any grievance* directed at or relating to a Councillor or Councillors, by another Councillor or Councillors.

The procedure takes into account the following principles:

- a) prior to commencing any formal grievance resolution process, the Councillors who are parties to a grievance will endeavour to resolve the issues at the local level, in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.
- b) the grievance should be dealt with expeditiously so as to avoid the potential for escalation and to maximise control and resolution of the matter at the local level.
- c) the grievance should be dealt with in accordance with the principles of natural justice, in an unbiased and fair manner.
- e)d) satisfactory resolution of any grievance will principally arise from:
 - (i) establishing timely and effective communication between the parties;
 - (ii) identifying the basis of the concerns which give rise to the grievance, the symptoms, and the most likely causes;
 - (iii) implementing an agreed or a preferred and realistic action plan;
 - (iv) engaging in a genuine attempt at resolution of the grievance raised in accordance with the principles of natural justice, equity and fair treatment for all parties; and
 - (v) the procedure being mutual and that Councillors must make a genuine and constructive attempt at resolution of the particular grievance issue.

Council's ~~five~~four step ~~formal~~ grievance resolution process involves:

Step 1: Negotiation between the parties to the grievance, facilitated by the Mayor.;

~~Step 2: Councillors-only meeting;~~

Step ~~3~~2: Mediation between the parties to the grievance, facilitated by an independent mediator.;

Step ~~4~~3: ~~—~~ Arbitration involving an independent arbiter.

Note that a grievance which relates to an interpersonal conflict between Councillors, but does not involve an alleged breach of the Councillor Code of Conduct, will not be eligible to proceed to Step 3 – arbitration.;

Step ~~5~~4: ~~—~~ Referral to an external body, if appropriate.

Note that an application for formation of a Councillor Conduct Panel can only be made in respect of a grievance involving alleged misconduct or serious misconduct, as defined in the Act.

The Local Government Investigations and Compliance Inspectorate will only investigate a grievance if it involves an alleged breach of the Act.

The Independent Broad-based Anti-corruption Commission will only investigate a grievance if it involves alleged corruption.

Definitions

***grievance** means a complaint about the conduct of a Councillor or Councillors lodged by another Councillor or Councillors. A grievance may relate to an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council, or an alleged contravention of the Councillor Code of Conduct.

It does not include a complaint made against a Councillor or Councillors by a member or members of Council staff, or by any other person, or a "disclosure" under the *Protected Disclosure Act 2012*.

~~**grievance resolution sub-committee** means a sub-committee of three Councillors, appointed by Council annually as part of the appointment of Councillor delegates to committees.~~

dispute means a grievance which has not been able to be resolved **after the conclusion of Steps 1, 2 and 3 (if eligible)** ~~and is referred to an independent body for investigation and appropriate action.~~

Step 1 – Facilitated negotiation

Before commencing any formal **dispute grievance** resolution process, the Councillors who are parties to a grievance will exhaustively endeavour to resolve the issue in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.

This grievance resolution procedure is intended to be used **only** when Councillors have been unable to resolve a grievance and where the situation is unduly affecting the operation of the Council.

Note: This procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and Committee meetings.

In the event that the Mayor is a party to the grievance, the Deputy Mayor will perform the functions in this procedure ascribed to the Mayor, in the Mayor's stead. If the Mayor and Deputy Mayor are both parties to the grievance, the most recent past Mayor who is a member of the incumbent Council will perform the functions in this procedure ascribed to the Mayor, in the Mayor's stead. If there is no such past Mayor available to perform the functions, the most recent past Deputy Mayor who is a member of the incumbent Council will perform the functions. If there is no such past Deputy Mayor available to perform the functions, Council's Principal Conduct Officer ('PCO') will appoint a Councillor of the incumbent Council who is not a party to the grievance, to perform the functions in this procedure ascribed to the Mayor.

All documents produced in connection with a grievance resolution procedure are to be treated as confidential and may not be publically released unless the Mayor, CEO and PCO consider that it is appropriate in the circumstances.

Step 1 – Facilitated negotiation

Preparation of grievance statement

- a) The Councillor or Councillors raising the matter will prepare a written grievance statement which sets out the circumstances giving rise to the grievance.

~~The grievance statement is to be provided to the Mayor in the first instance.~~

~~If the Mayor is the subject of the grievance, the grievance will first be discussed with the grievance resolution sub-committee, which will determine a suitable person to perform the functions in this procedure ascribed to the Mayor, in the Mayor's stead.~~

The grievance statement will include:

- (i) the name of the Councillor or Councillors who are the subject of the grievance;
- (ii) the allegations made and the provisions of the Code of Conduct that are alleged to have been contravened (if applicable);
- (iii) evidence in support of the allegations;
- (iv) a summary of the endeavours that have been made to resolve the issue; and
- (v) the signature of the Councillor or Councillors raising the grievance, and the date.

It is open to the Councillor or Councillors raising the grievance to seek assistance in preparing the grievance statement, but this assistance cannot be provided by any member of Council staff.

~~The grievance statement will be dated and signed by the Councillor or Councillors who have raised the grievance.~~

- b) The grievance statement will be provided to the PCO.

~~The Mayor will provide a copy of the grievance statement to the Councillor or Councillors who are the subject of the grievance, as soon as practicable after receipt.~~

Notifications by PCO

- c) As soon as practicable (but not more than 3 business days) after receiving a grievance statement, the PCO will:
- (i) Provide a copy of the grievance statement to the CEO and Mayor;
 - (ii) Provide a copy of the grievance statement to the Councillor or Councillors who are the subject of the grievance; and
 - (iii) Advise the Mayor and the parties to the grievance that they will be required to attend a facilitated negotiation meeting, and seek an indication of availability.

Convening of facilitated negotiation meeting by PCO

- d) The Mayor and the parties to the grievance have an opportunity to notify the PCO of any preferences as to the date and time for the facilitated negotiation meeting, within 3 business days of receiving the PCO's advice under clause c) (iii).
- e) Four business days after sending the advice in clause c)(iii), the PCO will determine a suitable date and time for the facilitated negotiation meeting, taking into

consideration as far as practicable any preferences that have been expressed by the Mayor and the parties to the grievance.

- f) The PCO will notify the Mayor and the parties to the grievance of the date, time and venue for the facilitated negotiation meeting. ~~The Mayor will convene a meeting of the parties at the earliest available opportunity.~~

Conduct of the facilitated negotiation meeting

- g) The Councillors who are parties to the grievance, and the Mayor and the PCO must attend ~~this~~ the facilitated negotiation meeting.

- ~~b)~~ Each party to the grievance is entitled to bring a support person to the meeting. The support person may not speak at or otherwise participate in the meeting, but may request that the meeting be briefly adjourned to enable them to speak to the party they are supporting.

h)

- i) The Mayor will chair the facilitated negotiation meeting, ensuring that all parties to the grievance are given the opportunity to speak.

The ~~role of the Mayor~~ will also ~~at the meeting is to~~ provide guidance to the parties ~~Councillors~~ about what is expected of a Councillor, including in relation to the role of a Councillor under section 65 of the Act, and the observation of the Councillor Conduct Principles and the Councillor Code of Conduct.

- j) The PCO will create a meeting record of the facilitated negotiation, which will include:

- (i) Meeting date, start and finish time;
- (ii) The name and title of each attendee, including any support persons;
- (iii) Any adjournments, including who requested the adjournment, the reason given, and the start and finish time;
- (iv) Summary of key points discussed; and
- (v) Details of any resolution, agreement or other outcome achieved at the meeting and whether the grievance is deemed to have been resolved.

- k) The PCO may make an audio recording of the facilitated negotiation meeting, if requested to do so. No other person will be permitted to make a recording of the meeting. Any audio recording made by the PCO will be securely and confidentially stored in Council's corporate records system.

- ~~e)~~ Within 3 business days of the conclusion of the facilitated negotiation meeting, the PCO will send a copy of the draft meeting record

- l) to the CEO, the Mayor and each of the parties to the grievance.

- m) The Mayor and each of the parties have an opportunity to notify the PCO in writing of any perceived inaccuracies or errors in the draft meeting record, within 3 business days of its receipt. A copy of any such notification must also be provided to the other party or parties to the grievance.

- n) If no issues are raised, the PCO will finalise the meeting record and send a copy of the final version to the CEO, the Mayor and each of the parties to the grievance.

- o) If any issues are raised with the draft meeting record, the PCO will decide whether amendments are required. The PCO may listen to the audio recording of the meeting (if made) to assist in making this decision. The PCO will notify the Mayor

and each of the parties to the grievance of the decision regarding amendments to the meeting record.

- p) Due to the substantial time and resources involved, no transcript of the audio recording will be made unless the PCO determines this to be necessary to resolve a dispute regarding the accuracy of the meeting record.
- ~~b) The Mayor will document any agreement reached at the meeting. Copies of the agreement are to be provided to the parties to the grievance. Where a party does not comply with the agreement, the grievance will proceed to Step 2.~~
- a)q) If the parties cannot resolve the grievance at the meeting, a further meeting may be convened.
- ~~b) If the parties are able to achieve a resolution to the grievance, whether by means of an apology or any other agreed action, the matter will be deemed to have been addressed and completed.~~
- ~~c) If after exhaustive effort the grievance is not able to be resolved using Step 1, the matter will proceed to Step 2.~~

~~Step 2 – Councillors-only meeting~~

- ~~a) The Mayor will convene an informal confidential meeting of Councillors only, to discuss the grievance and exhaustively endeavour to resolve the issues, in a courteous and respectful manner.~~
- ~~b) If the parties are able to achieve a resolution to the grievance, whether by means of an apology or other agreed action, the matter will be deemed to have been addressed and completed.~~
- ~~c) If after exhaustive effort, the grievance is not able to be resolved, the matter will proceed to Step 3.~~

Step 3 – Mediation

- a) If the grievance remains unresolved after the completion of Step 1, or if a grievance was deemed to have been resolved during Step 1 on the basis of an agreement which has subsequently been breached, the grievance may proceed to Step 2 – mediation.
- b) Where a grievance proceeds to mediation, the parties to the grievance must not communicate with the mediator outside the formal mediation process.

Request for mediation

- c) A party to a grievance which remains unresolved after the completion of Step 1 may make a written request to the PCO for the grievance to proceed to Step 2 – mediation.

Similarly, a party to a grievance that was deemed to have been resolved during Step 1 on the basis of an agreement which has subsequently been breached, may make a written request to the PCO for the grievance to proceed to Step 2 – mediation.

Convening of mediation by PCO

- ~~a) The Mayor will provide a copy of the grievance statement to the Principal Conduct Officer, and request the commencement of Step 3. The grievance statement and request will form the application for a Step 3 Mediation.~~
- d) ~~The~~ As soon as practicable after receiving a written request for mediation, the PCO ~~will~~ ~~Principal Conduct Officer will~~ identify ~~nominate~~ ~~an~~ ~~three~~ independent mediator who is suitably qualified and able ~~mediators~~ to conduct a fair and balanced mediation ~~assist in the resolution~~ of the grievance. ~~Each of these nominees will be suitably independent and able to carry out the role of mediator fairly.~~ The PCO will confirm with the mediator that they do not have any known conflict of interest through prior contact with any of the parties to the grievance, and obtain a fee estimate for the mediation process.
- e) The PCO will advise the parties to the grievance of the name of the proposed mediator. The parties to the grievance have an opportunity to notify the PCO of any objection to the proposed mediator, on the basis of an existing relationship or prior contact, within 3 business days of receiving the PCO's advice.
- f) If any objection is made regarding the proposed mediator, the PCO will consider the objection and make any enquiries necessary to determine whether the circumstances warrant nominating a different mediator. If a different mediator is to be nominated, the PCO will recommence the process from Step 2 c).
- ~~b) No sooner than four business days after advising the parties to the grievance of the proposed mediator, if no objections have been received, the~~
- ~~e) The mediator to be appointed will be the nominee agreed on by all parties to the grievance or, failing agreement, the nominee selected by the Chief Executive Officer.~~
- d)g) ~~The PCO~~ ~~Principal Conduct Officer~~ will:
- (i) Formally appoint the mediator in writing, providing ~~provide~~ a copy of the grievance statement (described in Step 1 – clause a)), the meeting record of the facilitated negotiation (described in Step 1 – clause j)) and any other documents deemed by the PCO to be relevant to the grievance; ~~and the application and any other relevant documents to the mediator as soon as practicable after receipt;~~
 - ~~(ii) obtain from the mediator a fee estimate for the mediation process, and notify the parties and the Council of the mediator's fee estimate;~~
 - (ii) ~~after consultation~~ with the mediator to determine arrangements for scheduling the mediation; and
 - (iii) ~~advise~~ the parties to the grievance of the time and place for the mediation.

Conduct of the mediation:

- h) The Councillors who are parties to the grievance must attend the mediation.
- i) Each party to the grievance is entitled to bring a support person to the mediation. The support person may not speak at or otherwise participate in the mediation, but may request that the mediator briefly adjourn the mediation to enable them to speak to the party they are supporting.

- j) The mediator will have responsibility for the oversight of a confidential mediation process, and will manage the mediation as they deem appropriate, ensuring that all parties to the grievance are given the opportunity to speak.
- k) The PCO will attend the mediation and assist the mediator in the administration of the process, and keep the Mayor and Chief Executive Officer abreast of the progress of the mediation.
- l) The PCO will create a meeting record of the mediation, which will include:
 - (i) Meeting date, start and finish time;
 - (ii) The name and title of each attendee, including any support persons;
 - (iii) Any adjournments, including who requested the adjournment, the reason given, and the start and finish time;
 - (iv) Summary of key points discussed;
 - (v) Details of any resolution, agreement or other outcome achieved at the mediation and whether the grievance is deemed to have been resolved; and
 - (vi) Any other matters which the mediator requests to be included.
- m) The PCO may make an audio recording of the mediation, if requested by the mediator to do so. Any audio recording made by the PCO will be securely and confidentially stored in Council's corporate records system. No other person may make a recording of the meeting without the express permission of the mediator.
- n) Within 3 business days of the conclusion of the mediation, the PCO will send a copy of the draft meeting record to the mediator and each of the parties to the grievance.
- o) The mediator and each of the parties have an opportunity to notify the PCO in writing of any perceived inaccuracies or errors in the draft meeting record, within 3 business days of its receipt. A copy of any such notification must also be provided to the other party or parties to the grievance.
- p) If no issues are raised, the PCO will finalise the meeting record and send a copy of the final version to the mediator and each of the parties to the grievance.
- q) If any issues are raised with the draft meeting record, the mediator will decide whether amendments are required. The mediator will notify the PCO and the parties to the grievance of the decision regarding amendments to the meeting record.
- r) A transcript of the audio recording will be made if requested by the mediator.
- ~~e) attend the mediation and assist the mediator in the administration of the process, if requested by the mediator; and~~
- ~~f) keep the Chief Executive Officer abreast of the progress of the mediation process (only if present at the mediation).~~
- ~~g) The mediator will have responsibility for the oversight of a confidential mediation process.~~
- h) If the parties are able to achieve a resolution to the grievance, whether by means of an apology or any other agreed action, the matter will be deemed to have been addressed and completed.
- ~~i) If after exhaustive effort the grievance is not able to be resolved using Step 3, the matter will proceed to Step 4.~~

Step 43 – Hearing before arbiter

- a) A party to a grievance involving an alleged contravention of the Councillor Code of Conduct which remains unresolved after the completion of Step 2 may make an application for the grievance to proceed to Step 3 – arbitration.

Similarly, a party to a grievance involving an alleged contravention of the Councillor Code of Conduct that was deemed to have been resolved during Step 2 on the basis of an agreement which has subsequently been breached, may make an application for the grievance to proceed to Step 3 – arbitration.

Note that a grievance which relates to an interpersonal conflict between Councillors, but does not involve an alleged breach of the Councillor Code of Conduct, will not be eligible to proceed to Step 3 – arbitration.

- b) Where a grievance proceeds to arbitration, the parties to the grievance must not communicate with the arbiter outside the formal arbitration process.

Application for arbitration

- c) An application for arbitration will be provided to the PCO in the first instance, and will include:
- (i) a copy of the grievance statement (described in Step 1 – clause a));
 - (ii) a copy of the meeting record of the facilitated negotiation (described in Step 1 – clause j));
 - (iii) a copy of the meeting record of the mediation (described in Step 2 – clause k)); and
 - (iv) a statement as to why arbitration is considered necessary.

Convening of Arbitration by PCO

- d) The PCO will identify an independent arbiter who is suitably qualified and able to conduct a fair and balanced arbitration of the grievance. The PCO will confirm with the arbiter that they do not have any known conflict of interest through prior contact with any of the parties to the grievance, and obtain a fee estimate for the arbitration process.
- e) The PCO will advise the parties to the grievance of the name of the proposed arbiter. The parties to the grievance have an opportunity to notify the PCO of any objection to the proposed arbiter, on the basis of an existing relationship or prior contact, within 3 business days of receiving the PCO's advice.
- f) If any objection is made regarding the proposed arbiter, the PCO will consider the objection and make any enquiries necessary to determine whether the circumstances warrant nominating a different arbiter. If a different arbiter is to be nominated, the PCO will recommence the process from Step 3 d).
- g) No sooner than four business days after advising the parties to the grievance of the proposed arbiter, if no objections have been received, the PCO will formally appoint the arbiter in writing, providing a copy of application for arbitration (described in Step 3 b)).

Conduct of the Arbitration

- ~~a) The Mayor will provide a copy of the grievance statement to the Principal Conduct Officer, and request the commencement of Step 4. The grievance statement and request will form the application for a Step 4 Arbitration.~~

- ~~b) The Principal Conduct Officer will nominate three external arbiters (at least one of whom will be a member of the MAV panel of appointed arbiters) to assist in the resolution of the grievance. Each of these nominees will be suitably independent and able to carry out the role of arbiter fairly.~~
- ~~c) The arbiter to be appointed will be the nominee agreed on by all parties to the grievance or, failing agreement, the nominee selected by the Chief Executive Officer.~~
- ~~d) The Principal Conduct Officer will:~~
- ~~e) provide a copy of the application and any other relevant documents to the arbiter as soon as practicable after receipt;~~
- ~~f) obtain from the arbiter a fee estimate for the hearing, and notify the parties and the Council of the arbiter's fee estimate;~~
- ~~g) after consultation with the arbiter, advise the parties of the time and place for the hearing;~~
- ~~h) attend the hearing(s) and assist the arbiter in the administration of the process; and~~
- ~~i) keep the Chief Executive Officer abreast of the progress of the hearing process.~~
- j)h) The arbiter will have responsibility for the oversight of a confidential grievance resolution process which will include:
- (i) consideration of an applications alleging a contravention of the Councillor Code of Conduct by a Councillor; and
 - (ii) making findings in relation to any application alleging a contravention of the Councillor Code of Conduct and the submission of those findings in writing to the Council.
- k)i) In considering an application alleging a contravention of the Councillor Code of Conduct, an arbiter will:
- (i) in consultation with the ~~Principal Conduct Officer~~, fix a time and place to hear the application;
 - (ii) authorise the ~~PCO~~~~Principal Conduct Officer~~ to formally notify the parties of the time and place of the hearing;
 - (iii) hold as many hearings as he or she considers necessary to properly consider the application. The arbiter may hold a directions hearing;
 - (iv) have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
 - (v) ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;
 - (vi) ensure that the parties can submit such documents and call such witnesses as are reasonably required for the hearing;
 - (vii) consider an application by a respondent (ie a Councillor who is the subject of the grievance) to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application. *Where an application to have legal representation is granted by an arbiter, the costs of the respondent's legal representation are to be borne by the party in their entirety.;*
 - (viii) ensure that the rules of natural justice are observed and applied in the hearing of the application;

- (ix) ensure that the hearings are closed to the public; and
- (x) discuss with the parties the confidentiality requirements regarding the arbitration process, and any documents produced in connection with the arbitration.

Arbiter's findings

~~l) Where an application to have legal representation is granted by an arbiter, the costs of the respondent's legal representation are to be borne by the party in their entirety.~~

~~m)j)~~ An arbiter may find:

- (i) ~~may find~~ that the allegation that a Councillor has contravened the Code is frivolous or vexatious;
- (ii) ~~may find~~ that a Councillor who is the subject of the grievance has not contravened the Code; or
- ~~(iii) may find~~ that a Councillor who is the subject of the grievance has contravened the Code; ~~and~~
- ~~(iv)(iii) will suspend consideration of an internal resolution procedure during the election period for a general election.~~

k) The arbiter will ~~is to~~ give a copy of his or her findings and the statement of reasons to the PCO~~Principal Conduct Officer~~, for forwarding to the parties.

Council consideration of Arbiter's findings

~~n)l)~~ The arbiter's findings ~~of the arbiter~~ will be presented to a formal Closed Council Meeting, ~~so that Council can consider and to discuss the grievance and exhaustively endeavour to~~ formally resolve on the issue.

~~o)m)~~ If the arbiter has found that the allegation that a Councillor has contravened the Code is frivolous or vexatious, the Council must require the Councillor who made the allegation to reimburse the Council the expenses it has ~~incurred~~ incurred in connection with the hearing before the arbiter.

~~p)n)~~ If the arbiter has found that a Councillor has contravened the Councillor Code of Conduct, the Council may ~~resolve to give any or all of the following written directions to the Councillor:~~

- (i) direct the Councillor to make an apology in a form or manner specified by the Council;
- (ii) direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council (beginning with the next scheduled meeting);
- (iii) direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor be removed from any position where the Councillor represents the Council and to not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.

o) If the Council determines that the grievance has been resolved, whether by means of an apology or other agreed action, the matter will be deemed to have been addressed and completed.

Suspension of arbitration during election period

~~q)–~~

- ~~f) If after exhaustive effort, the grievance is not able to be resolved, it will proceed to Step 5. Therefore, a "dispute" will be considered to be declared and the Council will formally resolve that its operation is being impeded because of a dispute between Councillors, and/or other aggrieved parties. The Council will further formally resolve to take one of the following options, depending on the nature of the grievance:~~
- ~~s) to make an application for a Councillor Conduct Panel under section 81B of the Local Government Act 1989, in respect of a Councillor's conduct; and noting that:~~
- ~~t) • Such an application can also be made by a Councillor, or a group of Councillors;~~
- ~~u) • Such an application must comply with section 81B of the Act;~~
- ~~v) • Applications and proceedings made and conducted under this part of the Act must be suspended during the election period for a general election.~~
- ~~w) OR~~
- ~~x) (ii) to refer the matter to the Local Government Inspectorate.~~
- ~~y) A Councillor who does not participate in the internal resolution procedure may be guilty of misconduct. In the definitions set out in section 3(1) of the Act, misconduct by a Councillor means any of the following:~~
- ~~z) failure by a Councillor to comply with the Council's internal resolution procedure; or~~
- ~~aa) failure by a Councillor to comply with a written direction given by the Council under section 81AB; or~~
- ~~bb) repeated contravention of any of the Councillor Conduct Principles.~~
- ~~cc) Allegations of misconduct are heard on application by a Councillor Conduct Panel.~~
- ~~dd)p) An application for a Step 3 arbitration hearing before an arbiter cannot be made during the election period for a general Council election. Any Step 3 procedure that is in progress must is to be suspended during the election period for a general Council election.~~
- ~~ee)q) If the respondent to an application for a Step 3 arbitration hearing before an arbiter is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:~~
- ~~(i) the application was made by the Council and the Council so resolves; or~~
 - ~~(ii) the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or~~
 - ~~(iii) the applicant (individual Councillor) is returned to office and wishes to proceed with the application.~~

~~Step 54 - Referral~~

~~A grievance which remains unresolved after the conclusion of Steps 1, 2 and 3 (if eligible) will be deemed to be a "dispute".~~

~~Note that:~~

- ~~• an interpersonal conflict between Councillors which does not involve an alleged breach of the Councillor Code of Conduct will not be eligible to proceed beyond the conclusion of Step 2 – mediation; and~~

- *a dispute which does not involve alleged misconduct or serious misconduct, an alleged breach of the Act or alleged corruption will not be appropriate for referral to an external body.*
- a) A dispute involving alleged misconduct or serious misconduct, as defined in the Act, may form the basis of an Application for Formation of a Councillor Conduct Panel under section 81B of the Act.

Such an application may be made by the Council, a Councillor or Councillors and addressed to the Principal Councillor Conduct Registrar (an officer of the State Government Department of Environment, Land, Water and Planning).
- b) A dispute involving an alleged breach of the Act may be referred to the Local Government Investigations and Compliance Inspectorate for investigation.
- c) A dispute involving alleged corruption may be referred to the Independent Broad-based Anti-corruption Commission for investigation.

If the matter remains unresolved after completion of Steps 1, 2, 3 and 4, the matter may then be referred to a Councillor Conduct Panel or the Local Government Inspectorate, as appropriate in the circumstances.

Note: Upon referral to an external one of the above bodies, the dispute process is effectively out of the control of the Council and Councillors, and becomes subject to the formal processes of the relevant body. It is clearly more desirable for the Council and Councillors to exhaust all efforts to address and resolve any grievance at the level of Steps 1 to 4.

12. SANCTIONS

Pursuant to section 81AB of the Act and as noted under Step 4 of Section 10 of the Code, a Councillor who has been found to have contravened the Councillor Code of Conduct may be liable for any or all of the following sanctions, which can be imposed by the Council. The Council may:

- a) *direct the Councillor to make an apology in a form or manner specified by the Council;*
- b) *direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council;*
- c) *direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor—*
 - (i) *be removed from any position where the Councillor represents the Council; and*
 - (ii) *to not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.*



Frankston City Council

Councillor Code of Conduct 2018

1.	PURPOSE AND COMMITMENT	1
2.	OBJECTIVES, ROLES AND RESPONSIBILITIES OF THE COUNCIL.....	2
3.	ROLE OF THE MAYOR.....	2
4.	ROLE OF THE DEPUTY MAYOR.....	3
5.	ROLE OF COUNCILLORS	3
6.	FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.....	4
7.	COUNCILLOR CONDUCT PRINCIPLES	5
7.1	Primary principle	5
7.2	General principles.....	5
7.3	Frankston-specific Councillor conduct principles.....	6
8.	INTERACTIONS WITH COUNCIL STAFF.....	7
9.	OTHER OBLIGATIONS.....	8
9.1	Use of Council resources	8
9.2	Gifts and hospitality.....	8
9.3	Communication	9
9.4	Personal use of social media	10
9.5	Personal dealings with Council.....	10
9.6	Charter of Human Rights	11
9.7	Privacy and the handling of personal and health information.....	11
9.8	Freedom of Information	11
9.9	Candidature of Councillors in State or Federal elections.....	11
9.10	Compliance with Election (Caretaker) Period Policy.....	12
9.11	Access to documents and information	12
9.12	Access to Council offices	12
10.	PROHIBITED CONDUCT	13
10.1	Misuse of position	14
10.2	Improper direction	14
10.3	Confidential information.....	15
10.4	Conflict of interest.....	16
11.	GRIEVANCE RESOLUTION PROCEDURE	17
12.	WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT ..	26

1. PURPOSE AND COMMITMENT

1.1 The performance of the Council and the wellbeing of the Frankston community are directly affected by the conduct of the City's elected Councillors; accordingly, the community is entitled to expect that:

- a) the business of the Council is conducted with efficiency, impartiality and integrity;
- b) Councillors obey the spirit and letter of the law, and in particular, the provisions of relevant statutes, regulations, local laws and other instruments; and
- c) responsibility to the community is always given absolute priority over the private interests of Councillors.

The important leadership role of Councillors is recognised in, the *Local Government Act 1989* (the Act), which describes how the Council is to be accountable in the performance of its functions, the exercise of powers and the use of resources. The Act specifies the role, function and objectives of Council, Councillors and the Chief Executive Officer.

1.2 This Councillor Code of Conduct has been adopted in satisfaction of the requirements of the Act and is binding on all Councillors to:

- a) specify the standard of conduct expected of Frankston City Council's elected representatives;
- b) foster constructive working relationships between Councillors, to enable Councillors to work together in the best interests of the community; and
- c) mandate legal, ethical and appropriate Councillor conduct that will build public confidence in the integrity of local government.

1.3 The Mayor, Deputy Mayor and Councillors commit to carrying out their role to the highest standards of conduct and behaviour. As part of this commitment, all Councillors will adhere to the conduct principles, values and processes outlined in the Councillor Code of Conduct. This will attract the highest level of confidence from Council's community and stakeholders, assist Councillors to carry out their role, and provide a means for dealing with a range of situations which may occur.

1.4 References:

- *Local Government Act 1989* ("Act")
- *Privacy and Data Protection Act 2014*
- *Health Records Act 2001*
- *Protected Disclosure Act 2012*
- *Freedom of Information Act 1982*
- *Independent Broad-based Anti-corruption Commission Act 2011*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Winky Pop v Hobsons Bay City Council* (Victorian Supreme Court, 2007)
- relevant policy documents adopted by Council, eg. Election Period Policy, Councillor Entitlements and Expenses Policy, Communications Policy.

2. OBJECTIVES, ROLES AND RESPONSIBILITIES OF THE COUNCIL

- 2.1 Frankston City is governed by nine Councillors who are democratically elected in accordance with the Act. Collectively, they constitute the Council. The primary objective and role of Council is established in sections 3C and 3D of the Act. Councillors commit to work collaboratively by:
- a) respecting the right of each Councillor to speak and represent their views on the needs of members of the community;
 - b) speaking well of each other and the Council in public, including in social media;
 - c) demonstrating commitment to consult with other Councillors, within the decision making framework and with no surprises;
 - d) respecting the diverse needs, views and nature of the greater Frankston community;
 - e) supporting and having regard for the role of local government as an important level of government within Australia;
 - f) ensuring a consultative approach to solving problems, developing effective decisions and communicating outcomes that build teamwork and cooperation;
 - g) demonstrating leadership by focusing on issues and refraining from personalising matters particularly in relation to making personal remarks regarding other Councillors; and
 - h) respecting each Councillor's right to hold different views and engage in constructive debate on matters of difference, while being united in representing Council decisions.
- 2.2 The role of Councillors is to set the vision for the City which requires a focus on strategy and policy development. The role of the Chief Executive Officer is to implement the decisions and ultimately the vision of Council.

3. ROLE OF THE MAYOR

- 3.1 Section 73AA of the Act describes the functions of the Mayor as including:
- a) providing guidance to Councillors about what is expected of a Councillor including in relation to the role of a Councillor under section 65, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C;
 - b) acting as the principal spokesperson for the Council;
 - c) supporting good working relations between Councillors; and
 - d) carrying out the civic and ceremonial duties of the office of Mayor.
- 3.2 The governance of the Council is the responsibility of the Councillors collectively. The Mayor is "first-among-equals". While the Mayor does not have executive authority, Councillors acknowledge and respect that the Mayor has been elected by Councillors to lead the Councillor group and represent the Council. Accordingly Councillors agree to co-operate with the Mayor of the day in the fulfilment of the Mayoral leadership role.

- 3.3 The Mayor is responsible for chairing Council meetings, and in doing so will:
- a) retain control of the meeting at all times;
 - b) be impartial;
 - c) preserve order; and
 - d) ensure that the business of the meeting is conducted in a proper and efficient manner, and in accordance with any applicable Local Law.
- 3.4 Accordingly the Mayor:
- a) will first and foremost at all times reflect the will of the Council while in the chair and performing all other official duties;
 - b) may only debate a motion by speaking immediately after the mover and seconder of the motion have been given the opportunity to speak to the motion. Where the Mayor wishes to move or second a motion, he or she must vacate the chair;
 - c) is the official spokesperson for the Council regarding decisions made by the Council and advocacy with government.
- 3.5 The Mayor will liaise with Councillors about items to be listed on the Councillor Briefing Schedule. Councillors may also raise items for briefing directly with the Chief Executive Officer or the Director Corporate Development.

4. ROLE OF THE DEPUTY MAYOR

Where the Mayor is absent or otherwise unable to fulfil their duties, the Deputy Mayor will perform the duties ascribed to the Mayor, unless the Deputy Mayor has a conflict of interest or is unavailable.

5. ROLE OF COUNCILLORS

- 5.1 Section 65 of the Act provides that the role of a Councillor is:
- a) to participate in the decision-making of the Council;
 - b) to represent the local community in that decision-making; and
 - c) to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.
- 5.2 In performing the role of a Councillor, a Councillor must:
- a) consider the diversity of interests and needs of the local community;
 - b) observe principles of good governance and act with integrity;
 - c) provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the Act and other Acts;
 - d) participate in the responsible allocation of the resources of the Council through the annual budget; and

e) facilitate effective communication between the Council and the community.

5.3 The role of a Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A.

5.4 The role of a Councillor does not include the performance of functions that are the responsibility of the Council administration. Councillors perform a vital role through their participation in Council's decision-making functions; in a properly constituted Council meeting, Councillors approve the Council's procurement policy and make decisions about the awarding of significant contracts. However, Councillors do not have a role in the day to day administration of the procurement policy and must not attempt to influence the procurement process. Councillors must not perform project management or contract management duties, or become involved in operational tasks.

5.5 Councillors must respect the Chair at all times during a meeting (including an Assembly of Councillors), and must observe any lawful direction given by the Mayor.

5.6 If the Mayor calls a meeting for the purpose of providing guidance to a Councillor or Councillors (in accordance with the functions of the Mayor described in section 73AA of the Act), the Councillor or Councillors must attend the meeting.

6. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER

6.1 The functions of the Chief Executive Officer are specified in section 94 of the Act. The Chief Executive Officer is responsible for—

- a) establishing and maintaining an appropriate organisational structure for the Council;
- b) ensuring that the decisions of the Council are implemented without undue delay
- c) the day to day management of the Council's operations in accordance with the Council Plan;
- d) developing, adopting and disseminating a code of conduct for Council staff
- e) providing timely advice to the Council;
- f) ensuring that the Council receives timely and reliable advice about its legal obligations under the Act and any other Act;
- g) supporting the Mayor in the performance of the Mayor's role as Mayor;
- h) carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the Accident Compensation Act 1985 or the Workplace Injury Rehabilitation and Compensation Act 2013; and
- i) performing any other function or duty of the Chief Executive Officer specified in the Act or any other Act.

6.2 Within the budget parameters set by the Council, the Chief Executive Officer may appoint as many members of Council staff as are required to perform the functions of the Council under the Act and any other Act, and to enable the Chief Executive Officer to carry out her or his functions.

- 6.3 The Chief Executive Officer is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff.
- 6.4 The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.
- 6.5 Good governance depends upon a clear understanding and agreement about the different roles and responsibilities within a council. Councillors acknowledge that those who govern and those who manage must work together in order to produce the best outcomes for the community over the long term.
- 6.6 Councillors undertake to respect the functions of the Chief Executive Officer and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the Chief Executive Officer.
- 6.7 The Chief Executive Officer is the official spokesperson for the Council regarding operational matters.

7. COUNCILLOR CONDUCT PRINCIPLES

Councillors will observe and demonstrate the standards of conduct that the community has a right to expect of them. These standards are the 'Councillor Conduct Principles' which are described in the Act and include the following 'Primary Principle' and seven 'General Principles'.

7.1 Primary principle

Section 76B of the Act sets out the primary principle of Councillor conduct that in performing the role of a Councillor, a Councillor must –

- a) act with integrity;
- b) impartially exercise his or her responsibilities in the interests of the local community; and
- c) not improperly seek to confer an advantage or disadvantage on any person.

7.2 General principles

Section 76BA of the Act specifies that in addition to acting in accordance with the primary principle of Councillor Conduct specified in section 76B, in performing the role of a Councillor, a Councillor must:

- a) avoid conflicts between his or her public duties as a Councillor and his or her personal interests and obligations;
- b) act honestly and avoid statements (whether oral or in writing) or actions that will or are likely to mislead or deceive a person;
- c) treat all persons with respect and have due regard to the opinions, beliefs, rights and responsibilities of other Councillors, Council staff and other persons;
- d) exercise reasonable care and diligence and submit himself or herself to the lawful scrutiny that is appropriate to his or her office;

- e) endeavour to ensure that public resources are used prudently and solely in the public interest;
- f) act lawfully and in accordance with the trust placed in him or her as an elected representative; and
- g) support and promote these principles by leadership and example and act in a way that secures and preserves public confidence in the office of Councillor.

7.3 Frankston-specific Councillor conduct principles

As community and civic leaders with responsibility for the Council's decision-making structure, Councillors will lead by example and promote the highest standards in the way Council business is conducted.

In carrying out their role, Councillors will embrace and demonstrate Council's values which foster a spirit of working together for Frankston. In challenging and inspiring each other to realise their vision for the City, Councillors will demonstrate and commit to the following additional (Frankston-specific) Councillor Conduct Principles.

7.3.1 Objectivity and transparency

Councillors will conduct themselves in all decisions and actions professionally and ethically and will take responsibility for actions in an honest and transparent way. Councillors will:

- a) make all decisions solely on merit; and
- b) be as transparent as possible about their decisions and actions, giving reasons for their decisions, only restricting information as required by law or where the wider public interest requires such restriction.

7.3.2 Teamwork

There are nine members of the Council, who are democratically elected representatives of the Frankston community. Councillors will:

- a) acknowledge and embrace political, social, cultural and personal diversity. Nothing within the Code of Conduct will in any way impinge on the individual's right to express themselves in keeping with their own personal political, social or cultural beliefs and customs, provided that such expression of individualist belief and actions is at all times consistent with the expectations of a Councillor's behaviour, as stipulated in the Code of Conduct;
- b) contribute towards the Councillor group working its way towards a collective decision;
- c) make decisions in Council meetings, recognising that in discussions leading up to such decisions, for example in Assemblies of Councillors not open to the public, Councillors may explore a range of positions and express a range of views;
- d) not report the views expressed by fellow Councillors in meetings closed to the public, outside of those meetings. To do so would discourage full discussion of developing issues and the ability for Councillors to firm up their views as questions are answered and information provided;

- e) be accountable for their vote and statements in support of their vote at the time that the matter is decided in the Council meeting; and
- f) encourage and permit all Councillors to develop and grow their personal attributes, skills and expertise in the role of Councillor.

7.3.3 Meetings with applicants for proposed developments

Councillors will ensure that all communications and conversations (including, but not limited to, meetings, emails and telephone calls) with the developer / applicant / consultant for any development proposed within the Frankston municipality, regarding the proposed development, will occur in the presence of at least two members of Council staff.

For the purposes of this clause, “developer / applicant / consultant” means a party with a town planning application under consideration in the Frankston municipality, where the total sum of works exceeds \$100,000.

7.3.4 Ethical decision-making

If Councillors are unsure about the ethical issues involving an action or decision, consideration should be given to the following:

- a) Is the decision or conduct lawful?
- b) Is the decision or conduct consistent with the Council’s policies and objectives, and with this Code of Conduct?
- c) What will the outcome be for the community, the Council, a Councillor(s) and any other parties?
- d) Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- e) Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?
- f) In the event of any uncertainty about the ethical nature of any action or decision, Councillors should seek advice in the first instance from the Mayor and/or the Chief Executive Officer, the Chair of the Audit and Risk Management Committee, the Victorian Local Governance Association or Local Government Victoria.

8. INTERACTIONS WITH COUNCIL STAFF

8.1 Councillors acknowledge that section 95 of the Act requires Council staff to:

- a) act impartially;
- b) act with integrity including avoiding conflicts of interest;
- c) accept accountability for results; and
- d) provide responsive service.

8.2 When interacting with Council staff, Councillors will:

- a) recognise that all staff members are accountable to the Chief Executive Officer;

- b) respect that, pursuant to section 94A of the Act, the Chief Executive Officer is responsible for appointing, directing, managing and dismissing all Council staff, and for all other issues that relate to Council staff;
- c) recognise that a professional and well-managed team of managers and staff is essential to the wellbeing of the community;
- d) not direct, or seek to direct or influence a member of Council staff in the exercise or in the performance of a delegated duty or function, in an office or position the staff member holds, or in relation to advice provided to Council;
- e) interact with staff in a respectful, courteous manner that is not (or not likely to be) intimidating;
- f) not impede the ability of Council staff to give independent professional advice to Council;
- g) recognise that a resolution of the Council is the appropriate mechanism to establish or amend Council policy. In the case of routine enquiries, however, a relevant member of the Executive Team (or the appropriate Executive Assistant) may be contacted for clarification;
- h) adhere to any adopted Council policy or agreed protocols regarding interactions between staff and Councillors;
- i) direct any concerns about the performance of any staff member or service unit to the Chief Executive Officer; and
- j) agree that workplace bullying can and should be prevented. As a collective, Council will collaborate with staff and unions to institute and uphold policies to facilitate an environment free from physical and psychological violence.

9. OTHER OBLIGATIONS

9.1 Use of Council resources

Councillors undertake to use Council resources effectively and economically, and in accordance with any adopted policy or agreed protocols. Councillors will:

- a) maintain adequate security over Council property, facilities and resources provided to assist in the performance of Councillors' roles, and will comply with any Council policies applying to their use;
- b) declare that any expense claims submitted (including for out of pocket expenses or reimbursement for vehicle use) are accurate and relate strictly to Council business and activities, and comply with the relevant legislative provisions and Council policy;
- c) not use Council resources, including images and services of Council staff, for private or political purposes, unless legally or properly authorised to do so, and payments are made where appropriate; and
- d) not use public funds or resources in a manner that is improper or unauthorised.

9.2 Gifts and hospitality

Notwithstanding any other policy, Councillors will scrupulously avoid situations giving rise to the perception that a person or body, through the provision of gifts or

hospitality of any kind, is attempting to gain favourable treatment from an individual Councillor or from the Council.

A **gift** means any disposition of property, other than by a will, made by a person to a Councillor without consideration in money or money's worth or with inadequate consideration, including:

- a) the provision of a service (other than volunteer labour);
- b) the payment of an amount in respect of a guarantee; and
- c) the making of a payment or contribution at a fundraising function.

The **gift disclosure threshold** in the Act, currently \$500, applies to a gift or gifts given to a Councillor by any person, company or body but does not include reasonable hospitality received by the Councillor at an event or function attended by the Councillor in an official capacity.

Councillors will:

- (a) where a gift is accepted with a value equal to or above \$150, be mindful of the potential for a gift to give rise to the perception of being an attempt to gain favourable treatment, and ensure for transparency and accountability purposes that the gift is recorded in Council's Gifts Register noting whether the gift was retained or handed to the Council;
- (b) take all reasonable steps to ensure that their immediate family members (parents, spouse, children and siblings) do not receive gifts or benefits that give rise to the perception of being an attempt to gain favourable treatment;
- (c) recognise that a gift or gifts equal to or above the statutory gift disclosure threshold (currently \$500) received during the period described in section 78C(1) of the Act from a person, company or body that has a direct interest in a matter may give rise to an indirect interest because of receipt of the applicable gift or gifts; and
- (d) record all election campaign donations in their campaign donation return.

Where a gift is received on behalf of the Council, the gift becomes the property of the Council. For transparency and accountability purposes, any such gift will be recorded in Council's Gifts Register with a notation that it is the property of the Council.

9.3 Communication

- a) Councillors recognise their responsibility, as representatives of the local community, to be responsive to community views and to adequately communicate the position and decisions of the Council.
- b) Councillors undertake to comply with the Council's communications policy and to respect the roles of the Mayor and Chief Executive Officer as the official spokespersons of the Council.
- c) Although any Councillor is entitled to communicate his or her views to the media, constituents and others, they should not in doing so:
 - (i) criticise or actively seek to undermine any decision or position already taken by the Council;

- (ii) bring the Council into disrepute; or
 - (iii) purport to speak on behalf of the Council, without authority.
- d) Where an individual Councillor chooses to express a personal opinion through the media, they will:
 - (i) make it clear that any such comment is a personal view and does not represent the position of Council; and
 - (ii) ensure that any such comment could not reasonably be construed as being derogatory, offensive or insulting to any person.

9.4 Use of social media

In addition to the Communication provisions above, the following provisions apply to the use of all forms of social media.

When using social media, Councillors will endeavour to maintain an appropriate separation between their role and duties as a Councillor and their life as a private citizen.

On any social media account on which a Councillor may discuss matters relevant to Council, the Councillor will include in the header of the account a statement that they are providing their own individual comment and are not speaking for or on behalf of Frankston City Council.

When using any social media which enables them to be identified as a Councillor of the Council, a Councillor will not:

- a) imply that they are authorised to speak on behalf of the Council, or give the impression that their expressed views are those of the Council;
- b) post, make comment or endorse (for example 'like') material that is offensive, obscene, defamatory, damaging, deceptive, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, that infringes copyright or privacy, that constitutes a contempt of court, that breaches a court suppression order or is otherwise unlawful;
- c) use or disclose confidential information obtained in their capacity as a Councillor; or
- d) make any comment, post or endorse any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.

Where a Councillor has a social media account that refers to them as a Councillor, in accordance with Council's Election Period Policy this account must be deactivated and may only be reactivated upon the individual being officially sworn in as a Councillor of Frankston City Council.

9.5 Personal dealings with Council

When Councillors deal with the Council in their private capacity (e.g. as a ratepayer, recipient of a Council service or applicant for a permit) they will not expect, nor will they request, preferential treatment in relation to any such private matter.

Councillors will avoid any action that could lead Council staff or members of the public to believe that they are seeking preferential treatment.

9.6 Charter of Human Rights

Councillors acknowledge the human rights that are protected under the Victorian *Charter of Human Rights and Responsibilities Act 2006* ("the Charter"), and undertake to exercise their duties, so far as is possible, in a manner that is compatible with these human rights.

9.7 Privacy and the handling of personal and health information

Councillors acknowledge that the requirements of the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001* apply to handling personal information and health related information about residents, staff and Councillors.

9.8 Freedom of Information

Councillors will fully cooperate with the Council's administration to ensure that the Council can meet its legislative obligations in relation to any request made under the *Freedom of Information Act 1982*.

9.9 Candidature of Councillors in State or Federal elections

In order to avoid community perception of the politicisation of local government resulting from Councillors running for office in State or Federal Parliament, Councillors will adhere to the provisions set out below:

- a) Councillors note that section 28A of the Act disqualifies an individual from being a Councillor if they are employed as a Ministerial officer, a Parliamentary adviser or an electorate officer by a member of the Parliament of Victoria or in a corresponding position (however designated) by or for a member of the Parliament of the Commonwealth of Australia or of another State or Territory of the Commonwealth.
- b) A Councillor who becomes an endorsed candidate of a registered political party or publicly expresses an intention to run as a candidate for a State or Federal election ('a prospective candidate') will provide written advice to the Mayor, Councillors and Chief Executive Officer, as soon as practicable after the endorsement or expression of intention.
- c) A Councillor who is a prospective candidate will declare his or her intended candidacy at a meeting of the Council as soon as practicable after forming the intention to nominate and will then notify the Mayor, Councillors and Chief Executive Officer.
- d) A Councillor who nominates as a candidate for a State or Federal election ('a nominated candidate') will apply for leave of absence from the Council. This leave of absence should commence no later than the date of their nomination as a candidate with the relevant electoral commission for the election ('the nomination date') and conclude no earlier than the close of voting for the election. During this period, a Councillor who is on leave of absence will not attend meetings of the Council or otherwise act as a Councillor. If a Councillor who is on leave of absence is invited to attend a private function due to their position as a Councillor, they will not use the function in relation to his or her candidacy.

- e) Council, upon receiving an application for a leave of absence from a Councillor who is a nominated candidate or who intends to become a nominated candidate, will approve that application.
- f) A Councillor who is a prospective candidate or a nominated candidate must take care when making public comment to differentiate between his or her role as a State or Federal election candidate and their role as a Councillor.
- g) A Councillor who is a nominated candidate will observe the requirements of the Council's most recent election period policy, from the nomination date until the close of voting for the State or Federal election in which they are running.
- h) A Councillor who is a prospective candidate or a nominated candidate will not use Council resources, including Council equipment and facilities, in relation to his or her candidacy.
- i) A Councillor who is a prospective candidate or a nominated candidate must not use Council activities, including committee meetings and Council-related external activities, in relation to his or her candidacy.

9.10 Compliance with Election (Caretaker) Period Policy

Councillors are committed to upholding the highest standards of governance during election periods, and therefore agree to abide by the requirements of the Frankston City Council Election Period Policy, as adopted by Council in accordance with section 93B of the Act.

Notwithstanding the above, Councillors acknowledge that an alleged contravention of the provisions in the Act relating to Councillor eligibility, electoral conduct and the election caretaker period would not be dealt with by Council using the Dispute Resolution Procedure in this Councillor Code of Conduct. Such an allegation would instead need to be referred to the Victorian Electoral Commission or the Local Government Investigations and Compliance Inspectorate (depending on the nature of the allegation) for investigation and any consequent action.

9.11 Access to documents and information

Councillors are entitled to request documents and information relevant to an issue before, or concerning, Council. Such documents and information will be supplied in a manner that complies with Council's privacy obligations. A Councillor's request for access to Council documents will be made to the CEO or relevant Director. A Councillor will not access Council files or documents outside the formal process.

9.12 Access to Council offices

Councillors are entitled to access all civic areas, the Councillors' office and Councillors' lounge area, the Mayor's office, the common areas adjoining the offices of the Mayor and CEO, the Council Chamber and all meeting rooms, in the performance of their official duties and functions. However, a Councillor must not access a staff member's office or work station unless in the presence of the staff member.

Councillors who are not undertaking official duties and functions have the same rights of access to Council buildings and premises as any other member of the public.

10. PROHIBITED CONDUCT

Councillors acknowledge that the Act specifies some types of conduct that is expressly prohibited. They relate to specific actions and are unlike the ‘Principles’, which describe how Councillors should conduct themselves in more general terms. These matters can be particularly relevant to considerations of misconduct or serious misconduct by a Councillor Conduct Panel or gross misconduct by the Victorian Civil and Administrative Tribunal. Councillors also acknowledge that, in many cases, a breach of a specific provision in the Act may be subject to prosecution in a Court.

The table below provides guidance about various types of prohibited conduct, and the entities that would be responsible for investigating such allegations against a Councillor:

Allegation	Definition	Who Can Apply / Report	Responsible Entity
Misconduct	Failure to comply with the Council’s internal resolution procedure; or Failure to comply with a written direction given by the Council under section 81AB; or Repeated contravention of any of the Councillor conduct principles.	Council (with Council resolution) A Councillor A group of Councillors	Councillor Conduct Panel
Serious misconduct	Failure to attend a Councillor Conduct Panel hearing formed to make a finding in respect of that Councillor; or Failure to give a Councillor Conduct Panel any information the Councillor Conduct Panel has requested the Councillor to give; or Failure to comply with a direction of a Councillor Conduct Panel; or Continued or repeated misconduct after a finding of misconduct has already been made in respect of the Councillor by a Councillor Conduct Panel; or Bullying of another Councillor or member of Council staff; or Conduct in respect of a member of Council staff in contravention of section 76E; or The release of confidential information in contravention of section 77.	Council (with Council resolution) A Councillor A group of Councillors Chief Municipal Inspector	Councillor Conduct Panel
Gross misconduct	Behaviour that demonstrates that a Councillor is not of good character or is otherwise not a fit and proper person to hold the	Chief Municipal Inspector	VCAT

	office of Councillor.		
Breach of Local Government Act	Conduct including misuse of position; improper direction and improper influence; release or misuse of confidential information; failure to manage a conflict of interest.		Local Government Investigations and Compliance Inspectorate
Corrupt Conduct	Misuse of a person's position or power to obtain personal gain, either for themselves or others.	Any member of the public or the public sector may make a complaint, including as a protected disclosure.	Independent Broad-Based Anti-Corruption Commission (IBAC)
Breach of privacy or data security	Breach of privacy or data security, including inappropriate collection, release or disclosure of information relating to a person.	Any member of the public may make a complaint.	Commissioner for Privacy and Data Protection or the Health Services Commissioner
Criminal conduct	Suspected criminal conduct, including theft and assault.	Any person may make a complaint.	Victoria Police

10.1 Misuse of position

Section 76D of the Act creates the offence of misuse of position, and can apply even after a Councillor ceases to hold office. An offence occurs if a Councillor or former Councillor:

- a) gains or attempts to gain, directly or indirectly, an advantage for themselves or for any other person; or
- b) causes or attempts to cause, detriment to the Council or another person.

Circumstances which would involve a misuse of position by a Councillor include:

- a) making improper use of information acquired as a result of the position he or she held or holds;
- b) disclosing information that is confidential within the meaning of section 77 of the Act;
- c) directing or improperly influencing a member of Council staff, or trying to do so, in contravention of section 76E of the Act;
- d) exercising or performing, or trying to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- e) using public funds or resources in a manner that is improper or unauthorised; and
- f) failing to disclose a conflict of interest

10.2 Improper direction

Section 76E of the Act states that a Councillor must not improperly direct a member of Council staff in the exercise of any power or in the performance of any duty or function by that staff member. Nor must they attempt to do so.

It is an offence for a Councillor to direct or seek to direct a staff member:

- a) in the exercise of a delegated power, or the performance of a duty or function;
- b) in the exercise of a power, or performance of a duty or function as an authorised officer under any Act;
- c) in the exercise of any power or performance of a duty or function that the staff member exercises in an office or position held under another Act; or
- d) in relation to advice provided to the Council or a special committee.

This rule follows from the nature of local government and the broad range of powers given to Councils under many Acts. These powers are given to the Council as a whole and an individual Councillor only exercises powers when he or she votes in a Council or special committee meeting. An individual Councillor does not have the legal authority to instruct a member of Council staff or to direct the Council administration.

10.3 Confidential information

Section 77 of the Act provides that a Councillor must not release information that he or she knows, or should reasonably know, is confidential.

The section also sets out the ways in which information is made confidential. This includes where:

- a) the information was provided to the Council or a special committee in relation to a matter considered by the Council or special committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential; or
- b) the information has been designated as confidential information by a resolution of the Council or a special committee which specifies the relevant ground or grounds applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential; or
- c) the information has been designated in writing as confidential information by the Chief Executive Officer specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.

In accordance with Section 77(1A) a Councillor may disclose information that the he or she knows is confidential information in the following circumstances:

- a) for the purposes of any legal proceedings arising out of this Act;
- b) to a court or tribunal in the course of legal proceedings;
- c) pursuant to an order of a court or tribunal;
- d) to the Chief Municipal Inspector to the extent reasonably required by the Chief Municipal Inspector;
- e) to a Councillor Conduct Panel in the course of a hearing and for the purposes of the hearing;
- f) to a municipal monitor to the extent reasonably required by the municipal monitor; or
- g) to the extent reasonably required for any other law enforcement purposes.

10.4 Conflict of interest

Sections 77A to 80A of the Act require Councillors to disclose conflicts of interest:

- in Council meetings;
- in meetings of special committees;
- in audit committee and section 223 committee meetings; and
- in meetings that are classified as Assemblies of Councillors.

A Councillor has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the Councillor would be directly altered if the matter is decided in a particular way. This includes where there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms and where the Councillor and a member or members of the Councillor’s family have a controlling interest in a company or other body that has a direct interest in the matter.

A conflict of interest also exists where a Councillor has any of the six types of indirect interest. These indirect interests are:

Close association:	an indirect interest because of a close association with a family member, relative or member of the household who has a direct interest.
Indirect financial interest:	an indirect financial interest, including holding shares above a certain value in a company with a direct interest.
Conflicting duty:	a conflicting duty arising from having particular responsibilities to a person or organisation with a direct interest.
Applicable gift:	receipt of an applicable gift or gifts from a person or organisation with a direct interest.
Interested party:	a party to the matter by having become involved in civil proceedings in relation to the matter.
Residential amenity:	this occurs where there is a reasonable likelihood that the person’s residential amenity will be altered if the matter is decided in a particular way.

When declaring a conflict of interest at a meeting of a Committee or the Council, a Councillor must make a declaration immediately the item of business is introduced and identify the type and nature of the conflict.

In addition to the provisions contained in the Act relating to Assemblies of Councillors, Councillors will, when attending a meeting at which a Council staff member is present, disclose any conflicts of interest which, had the meeting been an Assembly of Councillors, they would have been required to disclose.

Councillors will also disclose any conflict of interest relating to any matters discussed at Councillor-only Sessions.

11. GRIEVANCE RESOLUTION PROCEDURE

This procedure prescribes the manner of dealing with any grievance* directed at or relating to a Councillor or Councillors, by another Councillor or Councillors.

The procedure takes into account the following principles:

- a) prior to commencing any formal grievance resolution process, the Councillors who are parties to a grievance will endeavour to resolve the issues at the local level, in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.
- b) the grievance should be dealt with expeditiously so as to avoid the potential for escalation and to maximise control and resolution of the matter at the local level.
- c) the grievance should be dealt with in accordance with the principles of natural justice, in an unbiased and fair manner.
- d) satisfactory resolution of any grievance will principally arise from:
 - (i) establishing timely and effective communication between the parties;
 - (ii) identifying the basis of the concerns which give rise to the grievance, the symptoms, and the most likely causes;
 - (iii) implementing an agreed or a preferred and realistic action plan;
 - (iv) engaging in a genuine attempt at resolution of the grievance raised in accordance with the principles of natural justice, equity and fair treatment for all parties; and
 - (v) the procedure being mutual and that Councillors must make a genuine and constructive attempt at resolution of the particular grievance issue.

Council's four step formal grievance resolution process involves:

- Step 1: Negotiation between the parties to the grievance, facilitated by the Mayor.
- Step 2: Mediation between the parties to the grievance, facilitated by an independent mediator.
- Step 3: Arbitration involving an independent arbiter.

Note that a grievance which relates to an interpersonal conflict between Councillors, but does not involve an alleged breach of the Councillor Code of Conduct, will not be eligible to proceed to Step 3 – arbitration.

- Step 4: Referral to an external body, if appropriate.

Note that an application for formation of a Councillor Conduct Panel can only be made in respect of a grievance involving alleged misconduct or serious misconduct, as defined in the Act.

The Local Government Investigations and Compliance Inspectorate will only investigate a grievance if it involves an alleged breach of the Act.

The Independent Broad-based Anti-corruption Commission will only investigate a grievance if it involves alleged corruption.

Definitions

- *grievance** means a complaint about the conduct of a Councillor or Councillors lodged by another Councillor or Councillors. A grievance may relate to an interpersonal conflict between Councillors where the conflict is or is likely to affect the operations of the Council, or an alleged contravention of the Councillor Code of Conduct.
- It does not include a complaint made against a Councillor or Councillors by a member or members of Council staff, or by any other person, or a "disclosure" under the *Protected Disclosure Act 2012*.
- dispute** means a grievance which has not been able to be resolved after the conclusion of Steps 1, 2 and 3 (if eligible).

Before commencing any formal grievance resolution process, the Councillors who are parties to a grievance will exhaustively endeavour to resolve the issue in a courteous and respectful manner, recognising that they have been elected to represent the best interests of the community.

This grievance resolution procedure is intended to be used only when Councillors have been unable to resolve a grievance and where the situation is unduly affecting the operation of the Council.

Note: This procedure is not intended to resolve differences in policy or decision making, which are appropriately resolved through discussion and voting in Council and Committee meetings.

In the event that the Mayor is a party to the grievance, the Deputy Mayor will perform the functions in this procedure ascribed to the Mayor, in the Mayor's stead. If the Mayor and Deputy Mayor are both parties to the grievance, the most recent past Mayor who is a member of the incumbent Council will perform the functions in this procedure ascribed to the Mayor, in the Mayor's stead. If there is no such past Mayor available to perform the functions, the most recent past Deputy Mayor who is a member of the incumbent Council will perform the functions. If there is no such past Deputy Mayor available to perform the functions, Council's Principal Conduct Officer ('PCO') will appoint a Councillor of the incumbent Council who is not a party to the grievance, to perform the functions in this procedure ascribed to the Mayor.

All documents produced in connection with a grievance resolution procedure are to be treated as confidential and may not be publically released unless the Mayor, CEO and PCO consider that it is appropriate in the circumstances.

Step 1 – Facilitated negotiation

Preparation of grievance statement

- a) The Councillor or Councillors raising the matter will prepare a written grievance statement which sets out the circumstances giving rise to the grievance.
- The grievance statement will include:
- (i) the name of the Councillor or Councillors who are the subject of the grievance;
 - (ii) the allegations made and the provisions of the Code of Conduct that are alleged to have been contravened (if applicable);

- (iii) evidence in support of the allegations;
- (iv) a summary of the endeavours that have been made to resolve the issue; and
- (v) the signature of the Councillor or Councillors raising the grievance, and the date.

It is open to the Councillor or Councillors raising the grievance to seek assistance in preparing the grievance statement, but this assistance cannot be provided by any member of Council staff.

- b) The grievance statement will be provided to the PCO.

Notifications by PCO

- c) As soon as practicable (but not more than 3 business days) after receiving a grievance statement, the PCO will:
 - (i) Provide a copy of the grievance statement to the CEO and Mayor;
 - (ii) Provide a copy of the grievance statement to the Councillor or Councillors who are the subject of the grievance; and
 - (iii) Advise the Mayor and the parties to the grievance that they will be required to attend a facilitated negotiation meeting, and seek an indication of availability.

Convening of facilitated negotiation meeting by PCO

- d) The Mayor and the parties to the grievance have an opportunity to notify the PCO of any preferences as to the date and time for the facilitated negotiation meeting, within 3 business days of receiving the PCO's advice under clause c) (iii).
- e) Four business days after sending the advice in clause c)(iii), the PCO will determine a suitable date and time for the facilitated negotiation meeting, taking into consideration as far as practicable any preferences that have been expressed by the Mayor and the parties to the grievance.
- f) The PCO will notify the Mayor and the parties to the grievance of the date, time and venue for the facilitated negotiation meeting.

Conduct of the facilitated negotiation meeting

- g) The Councillors who are parties to the grievance, and the Mayor and the PCO must attend the facilitated negotiation meeting.
- h) Each party to the grievance is entitled to bring a support person to the meeting. The support person may not speak at or otherwise participate in the meeting, but may request that the meeting be briefly adjourned to enable them to speak to the party they are supporting.
- i) The Mayor will chair the facilitated negotiation meeting, ensuring that all parties to the grievance are given the opportunity to speak.

The Mayor will also provide guidance to the parties about what is expected of a Councillor, including in relation to the role of a Councillor under section 65 of the Act, and the observation of the Councillor Conduct Principles and the Councillor Code of Conduct.
- j) The PCO will create a meeting record of the facilitated negotiation, which will include:

- (i) Meeting date, start and finish time;
 - (ii) The name and title of each attendee, including any support persons;
 - (iii) Any adjournments, including who requested the adjournment, the reason given, and the start and finish time;
 - (iv) Summary of key points discussed; and
 - (v) Details of any resolution, agreement or other outcome achieved at the meeting and whether the grievance is deemed to have been resolved.
- k) The PCO may make an audio recording of the facilitated negotiation meeting, if requested to do so. No other person will be permitted to make a recording of the meeting. Any audio recording made by the PCO will be securely and confidentially stored in Council's corporate records system.
- l) Within 3 business days of the conclusion of the facilitated negotiation meeting, the PCO will send a copy of the draft meeting record to the CEO, the Mayor and each of the parties to the grievance.
- m) The Mayor and each of the parties have an opportunity to notify the PCO in writing of any perceived inaccuracies or errors in the draft meeting record, within 3 business days of its receipt. A copy of any such notification must also be provided to the other party or parties to the grievance.
- n) If no issues are raised, the PCO will finalise the meeting record and send a copy of the final version to the CEO, the Mayor and each of the parties to the grievance.
- o) If any issues are raised with the draft meeting record, the PCO will decide whether amendments are required. The PCO may listen to the audio recording of the meeting (if made) to assist in making this decision. The PCO will notify the Mayor and each of the parties to the grievance of the decision regarding amendments to the meeting record.
- p) Due to the substantial time and resources involved, no transcript of the audio recording will be made unless the PCO determines this to be necessary to resolve a dispute regarding the accuracy of the meeting record.
- q) If the parties cannot resolve the grievance at the meeting, a further meeting may be convened.

Step 2 – Mediation

- a) If the grievance remains unresolved after the completion of Step 1, or if a grievance was deemed to have been resolved during Step 1 on the basis of an agreement which has subsequently been breached, the grievance may proceed to Step 2 – mediation.
- b) Where a grievance proceeds to mediation, the parties to the grievance must not communicate with the mediator outside the formal mediation process.

Request for mediation

- c) A party to a grievance which remains unresolved after the completion of Step 1 may make a written request to the PCO for the grievance to proceed to Step 2 – mediation.
Similarly, a party to a grievance that was deemed to have been resolved during Step 1 on the basis of an agreement which has subsequently been breached, may make a written request to the PCO for the grievance to proceed to Step 2 – mediation.

Convening of mediation by PCO

- d) As soon as practicable after receiving a written request for mediation, the PCO will identify an independent mediator who is suitably qualified and able to conduct a fair and balanced mediation of the grievance. The PCO will confirm with the mediator that they do not have any known conflict of interest through prior contact with any of the parties to the grievance, and obtain a fee estimate for the mediation process.
- e) The PCO will advise the parties to the grievance of the name of the proposed mediator. The parties to the grievance have an opportunity to notify the PCO of any objection to the proposed mediator, on the basis of an existing relationship or prior contact, within 3 business days of receiving the PCO's advice.
- f) If any objection is made regarding the proposed mediator, the PCO will consider the objection and make any enquiries necessary to determine whether the circumstances warrant nominating a different mediator. If a different mediator is to be nominated, the PCO will recommence the process from Step 2 c).
- g) No sooner than four business days after advising the parties to the grievance of the proposed mediator, if no objections have been received, the PCO will:
 - (i) Formally appoint the mediator in writing, providing a copy of the grievance statement (described in Step 1 – clause a)), the meeting record of the facilitated negotiation (described in Step 1 – clause j)) and any other documents deemed by the PCO to be relevant to the grievance; and
 - (ii) consult with the mediator to determine arrangements for scheduling the mediation; and
 - (iii) advise the parties to the grievance of the time and place for the mediation.

Conduct of the mediation

- h) The Councillors who are parties to the grievance must attend the mediation.
- i) Each party to the grievance is entitled to bring a support person to the mediation. The support person may not speak at or otherwise participate in the mediation, but may request that the mediator briefly adjourn the mediation to enable them to speak to the party they are supporting.
- j) The mediator will have responsibility for the oversight of a confidential mediation process, and will manage the mediation as they deem appropriate, ensuring that all parties to the grievance are given the opportunity to speak.
- k) The PCO will attend the mediation and assist the mediator in the administration of the process, and keep the Mayor and Chief Executive Officer abreast of the progress of the mediation.
- l) The PCO will create a meeting record of the mediation, which will include:
 - (i) Meeting date, start and finish time;
 - (ii) The name and title of each attendee, including any support persons;
 - (iii) Any adjournments, including who requested the adjournment, the reason given, and the start and finish time;
 - (iv) Summary of key points discussed;
 - (v) Details of any resolution, agreement or other outcome achieved at the mediation and whether the grievance is deemed to have been resolved; and
 - (vi) Any other matters which the mediator requests to be included.

- m) The PCO may make an audio recording of the mediation, if requested by the mediator to do so. Any audio recording made by the PCO will be securely and confidentially stored in Council's corporate records system. No other person may make a recording of the meeting without the express permission of the mediator.
- n) Within 3 business days of the conclusion of the mediation, the PCO will send a copy of the draft meeting record to the mediator and each of the parties to the grievance.
- o) The mediator and each of the parties have an opportunity to notify the PCO in writing of any perceived inaccuracies or errors in the draft meeting record, within 3 business days of its receipt. A copy of any such notification must also be provided to the other party or parties to the grievance.
- p) If no issues are raised, the PCO will finalise the meeting record and send a copy of the final version to the mediator and each of the parties to the grievance.
- q) If any issues are raised with the draft meeting record, the mediator will decide whether amendments are required. The mediator will notify the PCO and the parties to the grievance of the decision regarding amendments to the meeting record.
- r) A transcript of the audio recording will be made if requested by the mediator.
- s) If the parties are able to achieve a resolution to the grievance, whether by means of an apology or any other agreed action, the matter will be deemed to have been addressed and completed.

Step 3 – Hearing before arbiter

- a) A party to a grievance involving an alleged contravention of the Councillor Code of Conduct which remains unresolved after the completion of Step 2 may make an application for the grievance to proceed to Step 3 – arbitration.

Similarly, a party to a grievance involving an alleged contravention of the Councillor Code of Conduct that was deemed to have been resolved during Step 2 on the basis of an agreement which has subsequently been breached, may make an application for the grievance to proceed to Step 3 – arbitration.

Note that a grievance which relates to an interpersonal conflict between Councillors, but does not involve an alleged breach of the Councillor Code of Conduct, will not be eligible to proceed to Step 3 – arbitration.

- b) Where a grievance proceeds to arbitration, the parties to the grievance must not communicate with the arbiter outside the formal arbitration process.

Application for arbitration

- c) An application for arbitration will be provided to the PCO in the first instance, and will include:
 - (i) a copy of the grievance statement (described in Step 1 – clause a));
 - (ii) a copy of the meeting record of the facilitated negotiation (described in Step 1 – clause j));
 - (iii) a copy of the meeting record of the mediation (described in Step 2 – clause k));
and
 - (iv) a statement as to why arbitration is considered necessary.

Convening of Arbitration by PCO

- d) The PCO will identify an independent arbiter who is suitably qualified and able to conduct a fair and balanced arbitration of the grievance. The PCO will confirm with the arbiter that they do not have any known conflict of interest through prior contact with any of the parties to the grievance, and obtain a fee estimate for the arbitration process.
- e) The PCO will advise the parties to the grievance of the name of the proposed arbiter. The parties to the grievance have an opportunity to notify the PCO of any objection to the proposed arbiter, on the basis of an existing relationship or prior contact, within 3 business days of receiving the PCO's advice.
- f) If any objection is made regarding the proposed arbiter, the PCO will consider the objection and make any enquiries necessary to determine whether the circumstances warrant nominating a different arbiter. If a different arbiter is to be nominated, the PCO will recommence the process from Step 3 d).
- g) No sooner than four business days after advising the parties to the grievance of the proposed arbiter, if no objections have been received, the PCO will formally appoint the arbiter in writing, providing a copy of application for arbitration (described in Step 3 b)).

Conduct of the Arbitration

- h) The arbiter will have responsibility for the oversight of a confidential grievance resolution process which will include:
 - (i) consideration of an application alleging a contravention of the Councillor Code of Conduct; and
 - (ii) making findings in relation to any application alleging a contravention of the Councillor Code of Conduct and the submission of those findings in writing to the Council.
- i) In considering an application alleging a contravention of the Councillor Code of Conduct, an arbiter will:
 - (i) in consultation with the PCO, fix a time and place to hear the application;
 - (ii) authorise the PCO to formally notify the parties of the time and place of the hearing;
 - (iii) hold as many hearings as he or she considers necessary to properly consider the application. The arbiter may hold a directions hearing;
 - (iv) have discretion to conduct the hearings as he or she deems fit while ensuring that the hearings are conducted with as little formality and technicality as due and proper consideration of the application allows;
 - (v) ensure that the parties to and affected by an application are given an opportunity to be heard by the arbiter;
 - (vi) ensure that the parties can submit such documents and call such witnesses as are reasonably required for the hearing;
 - (vii) consider an application by a respondent (ie a Councillor who is the subject of the grievance) to have legal representation at the hearing to ensure that the hearing is conducted fairly and may, in his or her absolute discretion, grant the application or deny the application. Where an application to have legal representation is granted by an arbiter, the costs of the respondent's legal representation are to be borne by the party in their entirety.

- (viii) ensure that the rules of natural justice are observed and applied in the hearing of the application;
- (ix) ensure that the hearings are closed to the public; and
- (x) discuss with the parties the confidentiality requirements regarding the arbitration process, and any documents produced in connection with the arbitration.

Arbiter's findings

- j) An arbiter may find:
 - (i) that the allegation that a Councillor has contravened the Code is frivolous or vexatious;
 - (ii) that a Councillor who is the subject of the grievance has not contravened the Code; or
 - (iii) that a Councillor who is the subject of the grievance has contravened the Code.
- k) The arbiter will give a copy of his or her findings and the statement of reasons to the PCO, for forwarding to the parties.

Council consideration of Arbiter's findings

- l) The arbiter's findings will be presented to a formal Closed Council Meeting, so that Council can consider and formally resolve on the issue.
- m) If the arbiter has found that the allegation that a Councillor has contravened the Code is frivolous or vexatious, the Council must require the Councillor who made the allegation to reimburse the Council the expenses it has incurred in connection with the hearing before the arbiter.
- n) If the arbiter has found that a Councillor has contravened the Councillor Code of Conduct, the Council may resolve to:
 - (i) direct the Councillor to make an apology in a form or manner specified by the Council;
 - (ii) direct the Councillor to not attend up to, but not exceeding, 2 meetings of the Council (beginning with the next scheduled meeting);
 - (iii) direct that, for a period of up to, but not exceeding, 2 months commencing on a date specified by the Council, the Councillor be removed from any position where the Councillor represents the Council and to not chair or attend any advisory committee or special committee meeting or an assembly of Councillors or any other meeting specified in the direction.
- o) If the Council determines that the grievance has been resolved, whether by means of an apology or other agreed action, the matter will be deemed to have been addressed and completed.

Suspension of arbitration during election period

- p) An application for a Step 3 arbitration cannot be made during the election period for a general Council election. Any Step 3 procedure that is in progress must be suspended during the election period for a general Council election.
- q) If the respondent to an application for a Step 3 arbitration is not returned to office as a Councillor in the election, the application lapses. If the respondent is returned to office in the election, the application may resume if:

- (i) the application was made by the Council and the Council so resolves; or
- (ii) the application was made by a group of Councillors and any one (or more) of those Councillors who has been returned to office wishes to proceed with the application; or
- (iii) the applicant (individual Councillor) is returned to office and wishes to proceed with the application.

Step 4 - Referral

A grievance which remains unresolved after the conclusion of Steps 1, 2 and 3 (if eligible) will be deemed to be a “dispute”.

Note that:

- *an interpersonal conflict between Councillors which does not involve an alleged breach of the Councillor Code of Conduct will not be eligible to proceed beyond the conclusion of Step 2 – mediation; and*
 - *a dispute which does not involve alleged misconduct or serious misconduct, an alleged breach of the Act or alleged corruption will not be appropriate for referral to an external body.*
- a) A dispute involving alleged misconduct or serious misconduct, as defined in the Act, may form the basis of an Application for Formation of a Councillor Conduct Panel under section 81B of the Act.

Such an application may be made by the Council, a Councillor or Councillors and addressed to the Principal Councillor Conduct Registrar (an officer of the State Government Department of Environment, Land, Water and Planning).
 - b) A dispute involving an alleged breach of the Act may be referred to the Local Government Investigations and Compliance Inspectorate for investigation.
 - c) A dispute involving alleged corruption may be referred to the Independent Broad-based Anti-corruption Commission for investigation.

Note: Upon referral to an external body, the dispute is effectively out of the control of the Council and Councillors, and becomes subject to the formal processes of the relevant body.

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Glenn Aitken

I, Glenn Aitken, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Kris Bolam

I, Kris Bolam, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Brian Cunial

I, Brian Cunial, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Colin Hampton

I, Colin Hampton, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Sandra Mayer

I, Sandra Mayer, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Quinn McCormack

I, Quinn McCormack, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Lillian O'Connor

I, Lillian O'Connor, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT

Declaration of Councillor Michael O'Reilly

I, Michael O'Reilly, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	

12. WRITTEN DECLARATIONS TO ABIDE BY THE COUNCILLOR CODE OF CONDUCT**Declaration of Councillor Steve Toms**

I, Steve Toms, hereby declare that I have read the Councillor Code of Conduct for Frankston City Council adopted on 13 June 2018, and I declare that I will abide by this Code.

Signature of Councillor:	
Date:	

I, Dennis Hovenden, Chief Executive Officer, confirm that I have witnessed the making of this declaration.

Signature of CEO:	
Date:	