

**ORDINARY COUNCIL MEETING
14 SEPTEMBER 2009**

2	MEETING PROCEDURE LOCAL LAW
LOCATION/ADDRESS:	N/A
GENERAL MANAGER:	MARK BRADY, GENERAL MANAGER CORPORATE SERVICES
PREPARED BY:	NORM MCCLELLAND, GOVERNANCE ADVISOR
FILE NO.:	16/07/51
ATTACHMENTS:	DRAFT MEETING PROCEDURE LOCAL LAW NO. 2/2009

1. EXECUTIVE SUMMARY

- 1.1 Section 91(1) of the *Local Government Act 1989* (the Act) requires councils to make a local law governing the conduct of meetings for Council and special committees.
- 1.2 Attached is a draft new Meeting Procedure Local Law No. 2/2009 which, if adopted, will revoke and replace the Meeting Procedure Local Law No. 2/2005.
- 1.3 The draft new local law will apply to meetings of Council and to those special committees comprised solely of Councillors.
- 1.4 The purpose of the Meeting Procedure Local Law is to:
 - 1.4.1 regulate proceedings at Council and special committee meetings comprised solely of Councillors;
 - 1.4.2 provide for the election of the Mayor and Deputy Mayor, and Chairpersons of special committees comprised solely of Councillors; and
 - 1.4.3 regulate the use of the Common Seal of Council.

2. RECOMMENDATION

That Council:

- 2.1 Authorises the placement of public notices in the Victorian Government Gazette, the Emerald Hill Weekly and the Port Phillip Leader advising of the intention to make a new Meeting Procedure Local Law No. 2/2009 and revoke the Meeting Procedure Local Law No. 2/2005.

- 2.2 Calls for public submissions, in accordance with section 223 of the Act, to the making of the new Meeting Procedure Local Law No. 2/2009.
- 2.3 Receives submissions from the public for 28 days from the date that the public notice is published in the Victorian Government Gazette.
- 2.4 Hears and considers public submissions at the Ordinary Meeting of Council on Monday 23 November 2009.
- 2.5 Proposes to adopt the Meeting Procedure Local Law No. 2/2009 at the Ordinary Meeting of Council on Monday 14 December 2009.
- 2.6 Authorises the Governance Advisor to undertake the administrative procedures to enable the Council to carry out its functions under sections 91(1), 111 and 223 of the Local Government Act 1989, to make the new meeting procedure local law.

3. BACKGROUND AND CONTEXT

- 3.1 The current Port Phillip Council local law governing the conduct of Council and special committee meetings comprised solely of Councillors was made in 2005.
- 3.2 The Act requires a local law to be revoked 10 years after the day on which it came into operation, however, Council also has the power to revoke a local law prior to the date on which it is due to sunset.
- 3.3 Even though the Meeting Procedure Local Law No. 2/2005 is not due to sunset until 2015, there are aspects of the current local law that are outdated and therefore a new law is required to be made to comply with recent legislative changes.
- 3.4 The draft new local law will address:
 - 3.4.1 Quorums at meetings
 - 3.4.2 Notice of meetings
 - 3.4.3 Order of business
 - 3.4.4 Conduct of public question time at meetings
 - 3.4.5 Conduct of public comment at meetings
 - 3.4.6 Minutes
 - 3.4.7 Procedures for motions and debate
 - 3.4.8 The manner in which standards of conduct will be regulated

- 3.4.9 Election of the Mayor / Deputy Mayor
- 3.4.10 Use of the Common Seal
- 3.5 Even though Council is required to make a local law to govern the conduct of meetings of Council and special committees, the Act also specifies certain requirements for meetings that take precedence over any requirements within a local law. Some of these requirements are:
 - 3.5.1 Any meeting of a Council or special committee must be open to the public.
 - 3.5.2 Any meeting of a Council or special committee can be closed to members of the public if it meets specific requirements of the Act.
 - 3.5.3 Council must give at least seven days public notice of an ordinary council meeting, a special council meeting or a special committee meeting comprised solely of Councillors. If seven days public notice cannot be given, the reason must be recorded in the minutes of the respective meeting.
 - 3.5.4 Voting at Council and special committee meetings that are open to members of the public must not be in secret.
 - 3.5.5 Minutes must be kept of all Council and special committee meetings and they must be submitted to the next Council meeting or special committee meeting, respectively, for confirmation.
 - 3.5.6 Agendas and minutes of meetings of Council and special committees must be held in a register available for public inspection (except for minutes where the meeting determined to close the meeting to the public).
 - 3.5.7 Council and special committees must not make major policy decisions during the election period for a general election.
- 3.6 A meeting procedure local law should provide formality and structure to meetings conducted by the Council and special committees, but also allow opportunity for community participation.
- 3.7 The draft new meeting procedure local law promotes active governance and citizenship by facilitating public participation in the Chamber. The community is provided with the opportunity to be involved in Council's formal meeting process by:
 - 3.7.1 asking questions at meetings; and
 - 3.7.2 presenting a petition, joint letter or deputation; and
 - 3.7.3 addressing specific items on the agenda.

4 CONSULTATION AND STAKEHOLDERS

- 4.1 The Act requires that a section 223 public submission process be conducted when making a local law. This requires allowing a period of 28 days in which submissions can be lodged and inviting submitters to speak to their submissions at a meeting of the Council. Advertisements will be placed in the local papers, the Victorian Government Gazette and on Council's website calling for public submissions.

5. DISCUSSION

5.1 OPTIONS

- 5.1.1 As previously stated, there are aspects of the current local law that are outdated and therefore a new local law is required to ensure compliance with recent legislative changes.

- 5.1.2 Council can either:

5.1.2.1 Proceed with the statutory process to make a new local law using the draft Meeting Procedure Local Law No. 2/2009 attached to this report; or

5.1.2.2 Amend the draft local law as required and proceed with the statutory process.

5.2 ALIGNMENT TO COUNCIL PLAN

- 5.2.1 The drafting of a new meeting procedure local law is consistent with Council's key direction of "Engaging and governing the city" as contained in the Port Phillip Council Plan 2009 – 2013. The Plan, under strategy 1.2.1, commits to "Promote a culture of good governance" by "Review local laws, meeting procedures and standing orders to ensure good governance".

5.3 POLICY IMPLICATIONS

- 5.3.1 The conduct of Council and special committees comprised solely of Councillors is currently governed by the Council Meeting Procedure Local Law No. 2/2005.

- 5.3.2 The revocation and making of local laws is governed by the Act. The making of a new meeting procedure local law will revoke the existing local law.

- 5.3.3 The conduct of meetings of Council and special committees comprised solely of Councillors will be governed by the Act, the relevant local law and any additional resolutions of the Council.

5.3.4 Where the Council meeting procedure local law is silent on any issue relating to meeting administration, the conduct of the meeting is at the discretion of the Council meeting or special committee meeting, subject to the relevant provisions of the Act and any existing Council resolutions.

5.3.5 The local law is inoperative to the extent that it is inconsistent with any Act or regulation.

5.3.6 **National Competition Policy** – Council must demonstrate compliance with National Competition Policy in relation to local laws. Council is required to maintain an on-going awareness of the need to ensure local laws do not restrict competition by applying the competition test to any new or amended local law as outlined in Schedule 8 of the Act, specifically:

5.3.6.1 A local law must not restrict competition unless it can be demonstrated that:

- The benefits of the restriction to the community as a whole outweigh the costs; and
- The objectives of the local law can only be achieved by restricting competition.

5.3.7 The draft new Meeting Procedure Local Law 2/2009 does not contain any clauses that restrict competition; it deals with meeting administration and procedural matters, election of the Mayor and Deputy Mayor, and use of the Common Seal of Council. The proposed local law complies with the requirements of National Competition Policy.

5.3.8 **Charter of Human Rights** – the Charter of Human Rights recognizes 20 human rights that local government must take into account when making local laws. Council is obliged to act compatibly with Charter Rights and give proper consideration to Charter Rights.

5.3.9 The Charter Rights are:

Recognition and equality before the law	Right to life
Protection from torture and cruel, inhuman or degrading treatment	Freedom from forced work
Freedom of movement	Privacy and reputation
Freedom of thought, conscience, religion and belief	Freedom of expression
Peaceful assembly and freedom of association	Protection of families and children
Taking part in public life	Cultural rights
Property rights	Right to liberty and security of person
Humane treatment when deprived of liberty	Children in the criminal process
Fair hearings	Rights in criminal proceedings
Right not to be tried or punished more than once	Retrospective criminal laws

5.3.10 Having considered the 20 human rights, it is believed that the Meeting Procedure Local Law is not incompatible with the requirements of the relevant rights outlined in the Charter. The proposed Local Law arguably provides support to some rights such as taking part in public life and freedom of expression.

5.4 FINANCE / RESOURCE IMPLICATIONS

5.4.1 The making of a new meeting procedure local law will have no immediate resource implications.

5.5 LEGAL & RISK IMPLICATIONS

5.5.1 Council must ensure that the correct procedure is followed to make the new local law, otherwise the local law may be rendered inoperative.

6. IMPLEMENTATION STRATEGY

6.1 TIMELINE

6.1.1 The following implementation plan is proposed for the making of the new meeting procedure local law:

6.1.1.1 September 2009 – Council resolve to advertise the making of a new meeting procedure local law and call for public submissions.

6.1.1.2 September/October 2009 – advertise and receive submissions.

6.1.1.3 November 2009 – hear submissions to the making of the new local law.

6.1.1.4 December 2009 – adopt the new meeting procedure local law, place the required legislative advertisements and send a copy of the new local law to the Minister for Local Government.

6.2 COMMUNICATION

6.2.1 The making of the new meeting procedure local law will be widely advertised in the local press and on Council's website and will be made available at the Council offices for public inspection.

7. OFFICER DIRECT OR INDIRECT INTEREST

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