



**14.5** **MEETING PROCEDURE LOCAL LAW NO.2 REVIEW**

**EXECUTIVE MEMBER:** KYLIE BENNETTS, DIRECTOR, OFFICE OF THE CEO

**PREPARED BY:** MURRAY CHICK, COORDINATOR GOVERNANCE

**1. PURPOSE**

- 1.1 The purpose of this report is to present to Council a proposed Meeting Procedure Local Law for consideration and recommends commencing the statutory process for the making of the Meeting Procedure Local Law No. 2/2019 in accordance with the Local Government Act 1989 (the Act).

**2. EXECUTIVE SUMMARY**

- 2.1 The Act requires Council to have a Local Law governing the conduct of Council meetings and Special Committee meetings and for the use of its Common Seal.
- 2.2 Council's current Meeting Procedure Local Law was adopted by Council in 2009. Under the Act all local laws have a sunset period of 10 years. The current Local Law will sunset on 24 December 2019 so therefore Council is required to review and adopt a new Meeting Procedure Local Law prior to that date.
- 2.3 The proposed Meeting Procedure Local Law (attachment 1) has been developed taking into account all feedback received from Councillors, Council's Executive Leadership Team and members of the community and it has been benchmarked against Council's existing Meeting Procedure Local Law and the Meeting Procedure Local Laws of similar Councils.
- 2.4 Each clause of the proposed Meeting Procedure Local Law has been notated where, in comparison to the existing Meeting Procedure Local Law, officers are proposing either 'No material change'; 'Minor enhancements'; or 'New clauses'.
- 2.5 The proposed Meeting Procedure Local Law governs the conduct of Council meetings (both Special and Ordinary) and Special Committees comprising solely of Councillors (Council currently has one of these committees being the Planning Committee).
- 2.6 Council is also required under Ministerial Guidelines for Local Laws established under clause 111A of the Act, to prepare a Local Law Community Impact Statement (LLCIS). The LLCIS seeks to improve consistency, clarity and transparency for those affected by Local Laws, including businesses and community members. A copy of Council's LLCIS is found in attachment 2. This Local Law Community Impact Statement has been prepared to inform the community about the proposed Meeting Procedure Local Law 2/2019 and to assist any member of the public who may wish to make a submission to Council during the formal public submission process.



### 3. RECOMMENDATION

That Council:

- 3.1 Gives public notice of its intention to make Meeting Procedure Local Law 2/2019 (Attachment 1) and pursuant to section 223 of the Local Government Act 1989 invites written submissions until 2 August 2019.
- 3.2 Endorses the Meeting Procedure Local Law Community Impact Statement (Attachment 2) to accompany the proposed Meeting Procedure Local Law 2/2019 for the purposes of community consultation.
- 3.3 Publishes public notices of its intention to make Meeting Procedure Local Law 2/2019 in the Victoria Government Gazette, the Port Phillip Leader and on Council's website.
- 3.4 Considers and hears submissions to the proposed Meeting Procedure Local Law 2/2019 at the Ordinary Council meeting to be held on 21 August 2019.
- 3.5 Receives a further report at the Ordinary Council meeting to be held on 18 September 2019 recommending the adoption of a Meeting Procedure Local Law 2/2019 after considering all submissions received.
- 3.6 Authorises appropriate members of Council staff to carry out the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Local Government Act 1989.
- 3.7 Authorises the Chief Executive Officer to make minor editorial updates to the documents that do not materially alter the intent.

### 4. KEY POINTS/ISSUES

- 4.1 An extensive review process has been conducted to incorporate changes in legislation, the inclusion of minor enhancements and new clauses to improve the clarity and transparency of meeting procedures for Councillors, the community and staff.
- 4.2 In March 2019 a survey was conducted of Councillors and the Executive Leadership Team regarding the objectives of a new Meeting Procedure Local Law and to receive feedback on what is working well or not working as well as it could in the current Meeting Procedure Local Law.
- 4.3 A Councillor briefing was held on 10 April 2019. The purpose of this briefing was to provide Councillors with an overview of the survey feedback received to date; provide Councillors with an overview of those parts of the Local Law that is required by legislation; those parts of the Local Law where no material change or only minor enhancements were proposed; and to provide Councillors with various options to those parts of the Local Law where material amendments to process are being considered.
- 4.4 A community consultation session was conducted on 8 May 2019 where officers received feedback from three community members who regularly attend Council meetings.
- 4.5 After taking into account the feedback received from Councillors, the Executive Leadership Team and regular community attendees of Council meetings together with benchmarking of other Councils, officers have prepared the attached proposed Meeting Procedure Local Law 2/2019.



- 4.6 The proposed Meeting Procedure Local Law is structured into six parts (A-F). Some of the key elements proposed in Part D – Meeting Procedures are:
- 4.6.1 Clause 23 Petitions and Joint Letters are now defined as requiring at least five signatures and reference has been included to electronic petitions. The process for Council receiving and considering petitions and joint letters has been more clearly explained.
  - 4.6.2 Clause 26 Public Question Time rules have been further clarified. It confirms the right for members of the public to ask questions of Council during Public Question Time. It specifies criteria for disallowing a question including if the question is repetitive and the question has already been answered.
  - 4.6.3 Clause 27 Councillor Question Time confirms a Councillor's right to ask questions of officers without notice during Councillor Question Time. It specifies criteria for the Chair to disallow a Councillor question including if it is deemed repetitive and a response has already been provided.
  - 4.6.4 Clause 28 Public comment and questions on agenda items confirms the right for a member of the public to ask questions or make a comment on specific agenda items prior to Council going into formal debate. It specifies that a member of the public can speak for three minutes or at a longer time at the Chair's discretion however the Chair can reduce speaking time limits to two minutes if there are five or more speakers. It includes criteria for the Chair to disallow a public question or comment if it is deemed repetitive and a response has already been provided.
  - 4.6.5 Clause 29 confirms a Councillors right to speak to the meeting and to ask questions and allows a Councillor to seek clarification to aid debate and their final decision making prior to and during formal debate.
  - 4.6.6 Clause 33 Voting removes the requirement that all Councillors and Special committee members present at the time the vote is taken must vote. This is consistent with advice received due to the repeal of the section of the Act that previously stated that all Councillors and members of Special Committees present must vote. The repeal of this section removed the express obligation on Councillors and members of Special Committees to vote, hence permitting Councillors and Special Committee members to abstain from voting. This repeal clearly indicated an intention of Parliament that voting should not be compulsory and Council cannot, by way of a Local Law, alter that position.
  - 4.6.7 Clause 34 Casting vote details that a Chair when exercising a casting vote in accordance with the Act is not prevented from changing their original vote. Advice has confirmed that in the event that a Chair has abstained from voting, this does not prevent the Chair from exercising a casting (second) vote. Advice received also states that the Act is to be read that the Chair must exercise a casting (second) vote to resolve a deadlock. Abstaining from voting, is by definition, not exercising a casting vote.
  - 4.6.8 Clause 43 Rescission or alteration Notice of Motion would now require at least two Councillor signatures. It also includes the option for the Mayor or the Council by resolution to call a Special Council meeting within seven days or earlier to discuss the rescission or alteration motion. It also specifies that the Chief Executive Officer can implement a resolution, to which a Notice to rescind or alter has been received, if the Chief Executive Officer is of the opinion that



deferring implementation of the resolution would have the effect of robbing the resolution of its efficacy.

- 4.6.9 Clause 55 contains nine Procedural Motions (Appendix A). These motions are in line with standard Procedural Motions across the sector.
- 4.6.10 Clauses 56, 57 and 58 details what is a Point of Order and the process for the Chair to consider a Point of Order and make a ruling.
- 4.6.11 Clause 65 Conditions of entry states that the public attending meetings may be required to sign an attendance register. It states that on occasions, Council may conduct bag searches of some or all people attending Council meetings for security and safety reasons and to ensure that all who attend Council meetings are able to attend and to participate in a safe environment. It specifies the public behaviour required and outlines items that are prohibited from being taken into the Chamber unless permitted by the Chair.

## **5. CONSULTATION AND STAKEHOLDERS**

5.1 The following consultation has taken place to date:

- 5.1.1 Councillor and Executive Leadership Team internal survey March 2019.
- 5.1.2 Councillor briefing 10 April 2019.
- 5.1.3 Community consultation session 8 May 2019.
- 5.1.4 Councillor briefing 22 May 2019.
- 5.1.5 A high level review of the proposed Meeting Procedure Local Law and the Community Impact Statement was undertaken by an independent legal advisor to ensure that the proposed Local Law is consistent with the Local Government Act and the Charter of Human Rights.

## **6. LEGAL AND RISK IMPLICATIONS**

- 6.1 Clause 91(1) of the Act requires Council to have a Local Law governing the conduct of Council meetings and Special Committee meetings and for the use of its Common Seal.
- 6.2 Council's current Meeting Procedure Local Law was adopted by Council in 2009. Under clause 122 (1) of the Act all local laws have a sunset period of 10 years. As a result, Council must review and adopt a new Meeting Procedure Local Law by 24 December 2019.

## **7. FINANCIAL IMPACT**

- 7.1 Funding for the proposed Meeting Procedure Local Law has been provided for in existing budgets. The direct financial impact of Council adopting a Meeting Procedure Local Law is the cost of giving public notice in the Victoria Government Gazette and the Port Phillip Leader and the cost of legal advice received in reviewing the Local Law. The total cost of developing the proposed Meeting Procedure Local Law will be in the order of \$6,000.

## **8. ENVIRONMENTAL IMPACT**

- 8.1 There is no direct economic impact by Council adopting a Meeting Procedure Local Law.



## 9. COMMUNITY IMPACT

- 9.1 The key objectives of the Meeting Procedure Local Law relating to the community are to:
- 9.1.1 Ensure proceedings and decision making by Council is transparent and understandable to all people who wish to participate in and observe meetings of Council.
  - 9.1.2 Ensure participation in proceedings is accessible and balanced with Council's primary decision-making role.
  - 9.1.3 Ensure proceedings and decision making is conducted in accordance to the principles of procedural fairness and good governance.
  - 9.1.4 Ensure proceedings and decision making is made in a safe and respectful environment and provides an equal opportunity for all to participate, with respect being accorded to the expression of differing views.

## 10. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICY

- 10.1 The public transparency of decisions made by Council is a key ingredient in achieving a financially sustainable, high performing, well governed organisation that puts the community first.

## 11. IMPLEMENTATION STRATEGY

### 11.1 TIMELINE

- 11.1.1 If Council wishes to proceed with making the Meeting Procedure Local Law, the Council is required to give public notice of its intention to make the Local Law and must conduct a formal public submission process in accordance with section 223 of the Local Government Act 1989. Council would then consider all submissions received and adopt its Meeting Procedure Local Law 2/2019. It is anticipated that the adoption of the Local Law would occur at the 18 September 2019 ordinary Council meeting.

### 11.2 COMMUNICATION

- 11.2.1 As part of the formal public consultation process, a copy of the proposed Meeting Procedure Local Law and the Community Impact Statement will be available for inspection at, and obtainable from, the Council office during ordinary business hours.

## 12. OFFICER DIRECT OR INDIRECT INTEREST

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

**TRIM FILE NO:** 18/01/102

**ATTACHMENTS**

- 1. Proposed Meeting Procedure Local Law
- 2. Community Impact Statement