



Bass Coast Shire Council
Draft Meeting Procedure Local Law 2018

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PART A - INTRODUCTION

1. Title

This Local Law will be known as the Bass Coast Shire Council "Meeting Procedure Local Law 2018".

2. Purpose of this Local Law

The purpose of this Local Law is to:

- 2.1 regulate the use of the common seal;
- 2.2 regulate proceedings for the election of the Mayor and Chairpersons of various Committees;
- 2.3 regulate proceedings at Council meetings, Committee meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of the Local Law are to apply;
- 2.4 make provision for related administrative procedures; and
- 2.5 provide for the peace, order and good government of the municipal district.

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:

- 4.1 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
- 4.2 ceases to operate on the tenth anniversary of the commencement date unless revoked sooner.

5. Revocation of the Bass Coast Shire Meeting Procedure Local Law 2009

On the commencement of this Local Law, the Bass Coast Shire Meeting Procedure Local Law 2009 is revoked.

6. Definitions

6.1 In this Local Law:

“Act” means Local Government Act 1989;

“Advisory Committee” means a committee established by Council as an advisory committee under the Act;

“Agenda” means a document containing the date, time and place of a meeting and a list of business to be transacted at the meeting;

“Chairperson” means the person who chairs a meeting;

“Chief Executive Officer” means the person who is the Chief Executive Officer of Council or any person acting in that position;

“Committee meeting” means a meeting of a Special Committee or an Advisory Committee;

“Council” means the Bass Coast Shire Council;

“Council meeting” means an Ordinary meeting or a Special meeting;

“Councillor” means a Councillor of Council;

“majority of the votes” means a majority of Councillors present at the time of a vote voting in favour of a matter;

“Mayor” means the Mayor of Council;

“meeting” means a Council meeting, a Special meeting, or a Committee meeting;

“Member” means a member of a Special Committee established by Council under the Act;

“Minutes” means the record of proceedings of a meeting;

“Municipality” means the municipal district of Council;

“notice of motion” means a notice setting out the text of a motion which a Councillor proposes to move at a meeting;

“Officer” means a member of Council staff;

“Ordinary meeting” means an Ordinary meeting of Council;

“Quorum” means the minimum number of Councillors required to be present at an Ordinary Council or Special meeting in order to constitute a valid meeting;

“Senior Officer” has the same meaning as in the Act;

“Special Committee” means a Special Committee established by Council under section 86 of the Act; and

“Special meeting” means a Special meeting of Council.

“Standing Orders” means the rules set out in this Meeting Procedure in order to guide the management of the meeting.

PART B - ELECTION OF MAYOR

The purpose of this Part is to regulate proceedings for the election of Mayor and Committee Chairpersons.

7. Election of Mayor

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

8. Method of Voting

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

9. Determining the election of the Mayor

9.1 The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and preside until the meeting elects a Mayor.

9.2 The procedure for the election of the Mayor is as follows:

9.2.1 the Chief Executive Officer must invite nominations for the office of Mayor (each of which must be seconded). If there is only one nomination, the candidate nominated is deemed to be elected;

9.2.2 if there is more than one nomination, a vote of the Councillors present at the meeting will be held;

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

9.2.4 in the event that no candidate receives a majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. A further vote of the Councillors present at the meeting will be held;

9.2.5 if one of the remaining candidates receives a majority of the votes, he or she is duly elected. If none of the remaining candidates receives a majority of the votes, the process of declaring the candidate with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives a majority of the votes. That candidate must then be declared to have been duly elected;

9.2.6 in the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the declaration will be determined by lot;

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

9.2.7.1 each candidate will draw one lot;

9.2.7.2 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;

9.2.7.3 as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle and the word "**Defeated**" shall be written on one of the pieces of paper;

9.2.7.4 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); and

9.2.8 the process under clause 9.2.7 will be repeated until one candidate is declared to be elected.

10. Procedures for Election of Deputy Mayor, Acting Chairperson or Committee Chairperson

10.1 The procedure used for the election of Mayor will be used to elect:

10.1.1 a Deputy Mayor, if the Council determines that the position of Deputy Mayor is required;

10.1.2 an acting chairperson if the Mayor and Deputy Mayor (if there is one) are unable to attend a Council meeting; and

10.1.3 Committee Chairpersons.

10.2 The Chief Executive Officer or an Officer that he or she appoints for the purpose will conduct the elections set out above.

PART C - COUNCIL'S COMMON SEAL

The purpose of this Part is to regulate the use of the common seal and prohibit unauthorised use of the common seal or any device resembling the common seal as required by section 5(3)(c) of the Act.

11. Security

- 11.1 The Chief Executive Officer must ensure the security of Council's common seal at all times.
- 11.2 The Chief Executive Officer will keep a register detailing how the Common Seal is affixed.

12. Use of the Common Seal

- 12.1 The common seal may only be used on the authority of Council given either generally or specifically and every document to which the common seal is affixed must be signed by the Chief Executive Officer or another Senior Officer authorised by the Chief Executive Officer for that purpose.
- 12.2 The common seal and words to be used accompanying it on any document to which it is affixed are as follows -

The COMMON SEAL of)
BASS COAST SHIRE COUNCIL)
was affixed on)
in the presence of:

.....
Chief Executive Officer/Authorised Officer

- 12.3 A person must not use the common seal or any device resembling the common seal without the authority of Council.
Penalty: 5 penalty units

PART D - MEETINGS PROCEDURE

The purpose of this Part is to regulate the proceedings of Council meetings.

DIVISION I - Notices of Meetings and Delivery of Agendas

13. Dates and Times of Meetings

Council must from time to time fix the date, time and place of all Ordinary meetings.

14. Council May Alter Ordinary Meeting Dates

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

15. Special Meetings

15.1 A Special Meeting of the Council must be called in accordance with section 84 of the Act.

16. Notice Of Meeting and Preparation of Agendas

16.1 The Chief Executive Officer must give notice to the public of a meeting in accordance with sections 84(4) and (4A) of the Act.

16.2 The Chief Executive Officer must ensure that notice of, and the agenda for, any Council meeting is sent to every Councillor so that it is received at least 48 hours before the Council meeting.

16.3 Where the Chief Executive Officer or, in his or her absence, a Senior Officer, is of the opinion that it is necessary or convenient to do so, he or she may postpone or cancel an Ordinary meeting provided that:

16.3.1 reasonable attempts are made to notify every Councillor; and

16.3.2 such public notice is given as is practicable.

16.4 The Chief Executive Officer or Senior Officer must submit a full written report of the circumstances requiring his or her reasons for postponing or cancelling an Ordinary Meeting under clause 16.3 to the next Ordinary meeting.

16.5 The CEO will consult with the Mayor on the preparation of the agenda

17. Leave Of Absence and Agenda

It is unnecessary for a notice of meeting or agenda to be delivered 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 to be held during the period of his or her absence.

DIVISION 2 - Quorums

18. Quorum

The quorum for Council meetings and Special meetings is a majority of the number of Councillors.

19. Inability To Gain A Quorum

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

19.1 those Councillors present; or

19.2 if there are no Councillors present, the Chief Executive Officer, or, in the absence of the Chief Executive Officer, a Senior Officer,

may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

20. Inability To Maintain A Quorum

If, during any Council meeting or any adjournment of the Council meeting, a quorum cannot be maintained:

20.1 those Councillors present; or

20.2 if there are no Councillors present, the Chief Executive Officer, or, in the absence of the Chief Executive Officer, a Senior Officer,

may adjourn the Council meeting for a period not exceeding seven days from the date of the adjournment.

21. Inability To Achieve Or Maintain A Quorum Due To Disclosure of Interests or Disclosure of Conflict of Interests Of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by the majority of Councillors, the Chief Executive Officer, or, in his or her absence, a Senior Officer, may adjourn the item in respect of which the conflicts of interest are disclosed for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the Act or otherwise until a quorum can be maintained in respect of that item.

22. Notice Of Adjourned Meeting

The Chief Executive Officer must:

22.1 if time permits, provide written notice of a meeting adjourned under clause 20, 20 or 21

22.2 if time does not permit, provide notice by way of contact by telephone, email or some other means,

to every Councillor.

23. Time limits for Meetings

- 23.1 No Council meeting will continue after 10.00 pm unless a majority of the Councillors present vote in favour of an extension of time.
- 23.2 An extension of time can only be for 30 minutes.
- 23.3 No more than two extensions of time will be permitted at a Council meeting unless Council resolves otherwise.
- 23.4 In the absence of such continuance, the meeting must stand adjourned to a time, date and place to be then and there announced by the Chairperson.
- 23.5 Council may adjourn any Council meeting by resolution.
- 23.6 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, in accordance with clause 22.

DIVISION 3 - Business of Meetings

24. The Order Of Business

- 24.1 The order of business for a Council meeting is to be determined by the Chief Executive Officer so as to facilitate and maintain open, efficient and effective processes of government.
- 24.2 The order of business, and all items to be considered at a Council meeting, will be set out in an Agenda prepared by the Chief Executive Officer.
- 24.3 The Agenda for a Council meeting will be provided by the Chief Executive Officer to each Councillor at least 4 days before the Council meeting.

25. Change To Order Of Business

Once an Agenda has been sent to Councillors in accordance with clause 24.3, the order of business for that Council meeting may only be altered by resolution of Council.

26. Urgent Business

- 26.1 If the Agenda for an Ordinary meeting makes provision for urgent business, business cannot be admitted as urgent business other than by resolution of Council.
- 26.2 Council must only admit business as urgent business if it:
 - 26.2.1 cannot safely or conveniently be deferred until the next Ordinary meeting; or
 - 26.2.2 involves a matter of urgency, as determined by the Chief Executive Officer.

27. General Business

- 27.1 If the Agenda for an Ordinary meeting makes provision for general business, only business of a minor or routine nature will be admitted as general business.

- 27.2 Any motion dealing with a matter that is not minor or routine must be rejected by the Chairperson and will be subject to the notice of motion provisions.
- 27.3 Such motions may be dealt with as urgent business under clause 26.

DIVISION 4 - Motions and Debate

28. Councillors May Submit Notices Of Motion

Councillors may ensure that an issue is listed on an Agenda by submitting a notice of motion in the Councillor's Notice of Motion form.

29. Notice Of Motion

- 29.1 A notice of motion must be in writing, signed by the Councillor submitting it and submitted to the Chief Executive Officer at least 8 days prior to the Council meeting agenda being published.
- 29.2 The Chief Executive Officer may reject any notice of motion which is:
- 29.2.1 vague or unclear in intention;
 - 29.2.2 defamatory, indecent, abusive, offensive or objectionable in language or substance; or
 - 29.2.3 outside the duties, functions and powers of Council,
- but must:
- 29.2.4 notify the Councillor who lodged it of the rejection and reasons for the rejection; and
 - 29.2.5 give the Councillor who lodged it an opportunity to amend it prior to rejection, if it is practicable to do so.
- 29.3 The full text of any such notice of motion must be included in the Agenda for the next Ordinary meeting.
- 29.4 The Chief Executive Officer must cause all notices of motion to be numbered, dated and entered in the notice of motion book in the order in which they were received.
- 29.5 Unless authorised by a resolution of Council, each notice of motion before any Council meeting must be considered in the order in which it was entered in the notice of motion book.
- 29.6 If a Councillor who has submitted a notice of motion is absent from the Council meeting at which the notice of motion is to be considered, or fails to move the motion when called upon by the Chairperson to do so, any other Councillor may himself or herself move the motion.

30. Chairperson's Duty

Any motion which is:

- 30.1 defamatory;

- 30.2 objectionable in language or nature;
 - 30.3 vague or unclear in intention;
 - 30.4 outside the powers of Council; or
 - 30.5 irrelevant to the item of business on the agenda and has not been admitted as urgent or general business, or purports to be an amendment but is not,
- must be rejected by the Chairperson.

31. Clarifying a Motion

Before a notice of motion or any other motion is moved, a Councillor may, with the leave of the Chairperson, ask for clarification from the Chairperson or Councillor expected to move the notice of motion or other motion of:

- 31.1 the intent; or
 - 31.2 some other aspect,
- of such notice of motion or other motion.

32. Moving A Motion or an Amendment

The procedure for moving any motion or amendment is as follows:

- 32.1 the mover must state the motion without speaking to it;
- 32.2 the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
- 32.3 the Chairperson has the right to second a motion in the interest of facilitating debate on a matter;
- 32.4 if a motion or an amendment is moved and seconded, the Chairperson must ask:
 - "Is the motion or amendment opposed?"
- 32.5 if no Councillor indicates opposition, the Chairperson may give the mover of the motion or amendment or any other Councillor wishing to do so the opportunity to speak before declaring the motion or amendment carried;
- 32.6 if a Councillor indicates opposition, then the Chairperson must call on the mover to address the meeting; The Secunder may reserve their right to respond;
- 32.7 after the mover has addressed the meeting, the seconder may address the meeting;
- 32.8 after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the Chairperson must call on any Councillor who wishes to speak to the motion (including, at the Chairpersons discretion, the seconder) if the Councillor has not previously spoken; and
- 32.9 if no Councillor speaks to the motion, then the Chairperson must put the motion.

33. Right Of Reply

- 33.1 The mover of a motion, including an amendment, may, once debate has been exhausted, have a right of reply to matters raised during debate.
- 33.2 After the right of reply has been taken, the motion must immediately be put to the vote without any further discussion or debate.

34. Moving An Amendment

- 34.1 Subject to clause 34.3 a motion which has been moved and seconded may be amended by leaving out, inserting or adding words, which words must be relevant to the subject of the motion and does not change the intent.
- 34.2 An amendment must not contradict the motion or change the substance of the motion.
- 34.3 A motion to confirm a previous resolution of Council cannot be amended.

35. Who May Propose An Amendment

An amendment may be proposed or seconded by any Councillor, except the mover or seconder of the original motion.

36. How Many Amendments May Be Proposed

- 36.1 Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chairperson at any one time.
- 36.2 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.

37. An Amendment Once Carried

If the amendment is carried, the motion as amended then becomes the motion before the meeting.

38. Withdrawal Of Motions

- 38.1 Before any motion is put to the vote, it may be withdrawn with leave of Council.
- 38.2 If the majority of Councillors object to the withdrawal of the motion, it may not be withdrawn.

39. Separation Of Motions

Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts.

40. Chairperson May Separate Motions

The Chairperson may, in his or her absolute discretion, decide to put any motion to the vote in several parts, even if no request is made under clause 39.

41. Priority of address

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

42. Motions In Writing

42.1 All motions, except procedural motions, should be in writing.

42.2 The Chairperson may suspend the meeting while the motion is being written or may request Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

43. Reading Motion and/or Amendment

The Chairperson may request the person taking the minutes of the meeting to read the motion or amendment to the meeting before the motion or amendment is put.

44. Debate Must Be Relevant To The Question

44.1 Debate must always be relevant to the question before the Chair, and, if not, the Chairperson must request the speaker to confine debate to the question then before the Council meeting.

44.2 If after being requested to confine debate to the question then before the Council meeting, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to not speak further in respect of the question.

44.3 A speaker to whom a direction has been given under clause 44.2 must comply with that direction.

45. Speaking Times

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

45.1 the mover of a motion or an amendment: 3 minutes

45.2 any other Councillor: 3 minutes; and

45.3 the mover of a motion exercising a right of reply: 2 minutes.

46. Addressing the Meeting

When addressing a Council meeting:

46.1 any person addressing the Chair must refer to the Chairperson as:

46.1.1 Madam Mayor; or

46.1.2 Mr Mayor; or

46.1.3 Madam Chair; or

46.1.4 Mr Chair

as the case may be;

- 46.2 all Councillors, other than the Mayor, must be addressed as Cr (name); and
- 46.3 all Officers must be addressed as Mr or Ms (name) as appropriate or by their official title,
- unless the Chairperson directs otherwise.

47. Foreshadowing Motions

- 47.1 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.
- 47.2 A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the Council meeting being resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- 47.3 A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the Council meeting.
- 47.4 The Chief Executive Officer or person taking the minutes of the Council meeting will not record foreshadowed motions in the minutes until the foreshadowed motion is formally moved.

DIVISION 5 - Procedural Motions

48. Procedural Motions

- 48.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.
- 48.2 Procedural motions require a seconder.
- 48.3 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 and Effect	Mover & Seconder	Matter in respect of which Motion may be moved	When motion prohibited	Debate permitted on Motion
1. Adjournment of debate to later hour and/or date	Form “That this matter be adjourned to *am/pm and/or *date for the following reason.....” * insert time/date Effect if carried Motion and amendments postponed to the stated time and/or date Effect if lost Debate continues unaffected	Any Councillor	Any matter	(a) During the election of a Chairperson; (b) When another Councillor is speaking	Yes
2. Adjournment of debate indefinitely	Form “That this matter be adjourned until further notice.” Effect if carried Motion and any amendment postponed but may be resumed at any later meeting if on the agenda or Council resolves to retrieve it Effect if lost Debate continues unaffected	Any Councillor	Any matter <u>except:</u> (a) election of a Chairperson (b) a matter in respect of which a call of the Council has been made for that meeting	(a) During the election of a Chairperson; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the Council has been made	Yes

Procedural Motion	Form and Effect	Mover & Seconder	Matter in respect of which Motion may be moved	When motion prohibited	Debate permitted on Motion
3. The closure	<p>Form “That the motion be now put” Effect if carried The Chairperson must call on the mover of the original motion or amendment in respect of which the closure motion is carried to reply to the debate on the original motion or amendment. The Chairperson must then immediately put the original motion or amendment to the vote. No further debate on, or amendment to, the original motion or amendment is permitted Effect if lost Debate continues unaffected</p>	A Councillor who has not spoken to the motion or any amendment of it	Any matter	During nominations for Chairperson	No
4. Laying on the table	<p>Form “That the question lie on the table” Effect if carried Motion and amendments not further discussed or voted on until: (a) Council resolves to take the question from the table at the same meeting; (b) The matter is placed on an agenda and Council resolves to take the question from the table Effect if lost Debate continues unaffected</p>	A Councillor who has not spoken to the motion or amendment of it	Any matter	(a) During the election of a Chairperson; (b) During a meeting which is a call of the Council	No

Procedural Motion	Form and Effect	Mover & Secunder	Matter in respect of which Motion may be moved	When motion prohibited	Debate permitted on Motion
5. Previous question	Form “That the question be <u>not</u> now put” Effect if carried (a) No vote or further discussion on the motion until it is placed on an agenda for a later meeting; (b) Proceed to next business Effect if lost Motion (as amended up to that time) put immediately without further amendment or debate	A Councillor who has not spoken to the motion or any amendment of it	Any matter <u>except</u> : (a) election of a Chairperson (b) a matter in respect of which a call of the Council has been made for that meeting	(a) During the election of a Chairperson; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the Council has been made; (d) When an amendment is before Council	Yes

Procedural Motion	Form and Effect	Mover & Secunder	Matter in respect of which Motion may be moved	When motion prohibited	Debate permitted on Motion
<p>6. Proceeding to next business</p>	<p>Form “That the meeting proceed to the next business”.</p> <p>Note: This Motion:</p> <ul style="list-style-type: none"> (a) May not be amended (b) May not be debated; (c) Must be put to the vote as soon as seconded <p>Effect if carried If carried in respect of:</p> <ul style="list-style-type: none"> (a) An amendment - Council considers the motion without reference to the amendment: (b) A motion - no vote or further discussion on the motion until it is placed on an agenda for a later meeting. <p>Effect if lost Debate continues unaffected</p>	<p>A Councillor who has not spoken to the motion or any amendment of it</p>	<p>Any matter <u>except</u>:</p> <ul style="list-style-type: none"> (a) election of a Chairperson (b) a matter in respect of which a call of the Council has been made for that meeting 	<ul style="list-style-type: none"> (a) During the election of a Chairperson; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the Council has been made 	<p>No</p>

DIVISION 6 - RESCISSION MOTIONS

49. Notice of Rescission

- 49.1 A Councillor may propose that a previous resolution of Council is rescinded or amended by submitting a notice of motion in accordance with clause 29, provided that the:
- 49.1.1 resolution has not been acted on; and
 - 49.1.2 notice of motion sets out -
 - 49.1.2.1 the resolution to be rescinded or amended; and
 - 49.1.2.2 the Council meeting and date when the resolution was carried.
- 49.2 A resolution is deemed to have been acted on for the purposes of clause 49.1.1 if:
- 49.2.1 its contents have, or substance has, been formally communicated to a person whose interests are materially affected by it; or
 - 49.2.2 action has been taken to give effect to the resolution which cannot be reversed.

50. If Lost

If a motion to rescind or amend a previous resolution of Council is lost, a similar motion may not be put before Council for at least three months from the date that it was lost, unless Council resolved that the notice of motion be re-listed for a future Ordinary Council meeting.

51. If Not Moved

If a motion to rescind or amend a previous resolution of Council is not moved at the Council meeting for which it is listed, it lapses and is deemed to have been lost.

52. May Be Moved By Any Councillor

A motion to rescind or amend a previous resolution of Council listed on an Agenda may be moved by any Councillor present but may not be amended.

53. When Not Required

A motion to rescind or amend a previous resolution of Council is not required where Council wishes to change policy unless:

- 53.1 the policy has been in force in its original or amended form for less than 12 months; or
- 53.2 the Chief Executive Officer determines that the proposed change will result in a significant impact on any person and should be communicated to those affected.

DIVISION 7 - Points of Order

54. Chairperson To Decide

The Chairperson 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.

55. Chairperson May Adjourn To Consider

55.1 The Chairperson may adjourn a Council meeting to consider a point of order but otherwise must rule on it as soon as it is raised.

55.2 All other questions before Council are suspended until the point of order is decided.

56. Dissent From Chairperson's Ruling

56.1 A Councillor may move that the Council meeting disagrees with the Chairperson's ruling on a point of order, by moving:

"That the Chairperson's ruling be dissented from".

56.2 When a motion in accordance with this clause is moved and seconded, the Chairperson must leave the Chair and:

56.2.1 the Deputy Mayor must chair the Council meeting; or

56.2.2 if there is no Deputy Mayor, a temporary Chairperson elected by the Council meeting must chair the Council meeting.

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

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

"That the Chairperson's ruling be dissented from."

56.5 If the vote is in the negative, the Chairperson resumes the Chair and the Council meeting proceeds.

56.6 If the vote is in the affirmative, the Chairperson resumes the Chair and must reverse his or her previous ruling and proceed.

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

57. Procedure For Point Of Order

A Councillor raising a point of order must:

57.1 state the point of order, state the incident objected to and the reasons for the objection; and

57.2 state any section, clause, paragraph or provision relevant to the point of order of this Meeting Procedure Local Law 2018.

58. Valid Points Of Order

A point of order may be raised in relation to:

58.1 a motion which, under clause 30, or a question which, under clause 60.7, should not be accepted by the Chairperson;

58.2 a question of procedure;

58.3 a Councillor who is or appears to be out of order; or

58.4 any act of disorder.

59. Contradiction Or Opinion

Expressing a mere difference of opinion or contradicting a speaker is not a point of order.

DIVISION 8 - Public Question Time

60. Question Time

60.1 There shall be a public question time at every Ordinary meeting to enable members of the public to submit questions to Council.

60.2 Questions submitted to Council must be in writing, state the name and address of the person submitting the question and generally be in a form approved or permitted by Council.

60.3 Subject to clause 60.8, any question submitted to the Council will be answered at the relevant Council meeting if the question has been submitted no less than 24 hours before the commencement of the Ordinary meeting.

60.4 Any question submitted less than 24 hours before the Ordinary meeting will be answered at that Ordinary meeting if possible and, if no answer can be given, then a written answer will be given to the person asking the question as soon as practicable after the Ordinary meeting.

60.5 No person may submit more than two questions at any Ordinary meeting unless permitted by the Chairperson, in his or her absolute discretion.

60.6 The Chairperson or Officer nominated by the Chairperson may read a question to those present.

60.7 A question may be disallowed by the Chairperson if it:

60.7.1 relates to a matter outside the duties, functions and powers of Council;

60.7.2 is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

60.7.3 deals with a subject matter already answered;

- 60.7.4 is aimed at embarrassing a Councillor or an Officer; or
 - 60.7.5 relates to a personnel matter; or
 - 60.7.6 relates to a matter that Council may consider in a meeting closed to the public under section 89(2) of the Act.
- 60.8 All questions and answers must be as brief as possible, and no discussion is allowed other than for the purposes of clarification.
 - 60.9 The Chairperson may nominate a Councillor or Officer to respond to a question.
 - 60.10 A Councillor or Officer nominated by the Chairperson under clause 60.9 may require a question to be put on notice until the next Ordinary meeting, at which time the question must be answered, or elect to submit a written answer to the person asking the question.
 - 60.11 A Councillor or Officer may advise Council that it is his or her opinion that the reply to a question should be given in a meeting closed to the public under section 89(2) of the Act. The Councillor or Officer must state briefly the reason why the reply should be so given and Council must then resolve that the reply to such question must:
 - 60.11.1 be so given, in which case the question will be deferred until Council resolves to close the Council meeting to the public; or
 - 60.11.2 not be so given, in which case the answer will be given immediately.

DIVISION 9 - Petitions and Joint Letters

61. Petitions and Joint Letters

- 61.1 A written petition or online (electronic) petition or joint letter presented to Council must include at least three signatures for written or 3 electronic identifications in order to be a valid petition or joint letter.
- 61.2 A petition or joint letter presented to Council must clearly indicate the lead petitioner.
- 61.3 A petition or joint letter presented to Council must lay on the table until a future Ordinary meeting and no motion, other than to receive the petition or joint letter, may be accepted by the Chairperson, unless Council resolves to deal with it earlier.
- 61.4 Every written petition or joint letter must be signed by the persons whose names are 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. Online (electronic) petitions may be exempt from receipt of addresses by Council Resolution
- 61.5 For the sake of clarity, a petition and a joint letter have the same meaning and shall be treated as being the same by Council.

- 61.6 A petition or joint letter which deals with a planning application or a Planning Scheme Amendment currently before Council under the Planning and Environment Act 1987 will be treated as a submission to that planning application or that Planning Scheme Amendment and will not be treated as a petition or joint letter.

DIVISION 10 - Deputations

62. Deputation to be referred to the Mayor

A deputation wishing to be heard by Council may make a written request to the Chief Executive Officer who must refer the request to the Mayor who will determine whether the deputation will be heard.

63. Consideration of Request

The Mayor may direct the Chief Executive Officer as to the Ordinary meeting at which the deputation will be heard or, alternatively, ask the Chief Executive Officer to place a request before Council, to resolve whether the deputation will be heard.

64. Notification of Hearing

If the Mayor directs that a deputation be heard, the Chief Executive Officer must notify all Councillors of that direction, and also notify a member of the deputation of the date, time, and place at which the deputation will be heard.

65. Written Submissions

A deputation may lodge with the Chief Executive Officer a written submission detailing the subject matter of the deputation prior to the deputation addressing Council.

66. Limitation on Speakers

Council will not hear more than two speakers on behalf of any deputation, and may, from time to time by resolution, set time limits on the length of address of each speaker.

67. Questions but no discussion

Councillors and Officers may question the deputation on matters raised by it for purposes of clarification only.

68. Matter to be determined upon a subsequent meeting

No motion will be allowed on any deputation until the next Ordinary meeting after the deputation has been heard unless Council, by resolution, decides otherwise.

DIVISION 11 - Voting

69. How Motion Determined

To determine a motion before a Council meeting, the Chairperson must first call for those in favour of the motion, then those opposed to the motion, and then

those abstaining from voting on the motion, and must then declare the result to the Council meeting.

70. Casting Vote

In the event of a tied vote, the Chairperson has a casting vote in accordance with section 90(1)(e) of the Act.

71. By Show Of Hands

Voting on any matter is to be by show of hands.

72. Procedure For A Division

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

72.2 When a division is called for, the vote already taken must be treated as a nullity and the division shall decide the question, motion or amendment.

72.3 When a division is called for, the Chairperson must:

72.3.1 first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise their hand. The Chairperson must then state, and the Chief Executive Officer or any other Officer nominated for the purpose must record, the names of those Councillors voting in the affirmative;

72.3.2 then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise their hand. The Chairperson must then state, and the Chief Executive Officer or any Officer nominated for the purpose must record, the names of those Councillors voting in the negative;

72.3.3 then ask each Councillor wishing to abstain from the vote to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise their hand. The Chairperson must then state, and the Chief Executive Officer or any Officer nominated for the purpose must record, the names of those Councillors abstaining from voting; and

72.3.4 next declare the result of the division.

73. 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 Councillor:

73.1 requesting, before the Council meeting moves to the next item of business, that his or her opposition to a resolution be recorded in the minutes of the Council meeting;

- 73.2 calling for a division under clause 72; or
- 73.3 foreshadowing a notice of motion to rescind or amend a resolution where it has just been made, or a positive motion where a resolution has just been rescinded.

DIVISION 12 - Minutes

74. Confirmation of Minutes

At every Ordinary meeting the minutes of the preceding Ordinary and/or Special meeting(s) must be dealt with as follows:

- 74.1 a copy of the minutes must be delivered to each Councillor no later than 48 hours before the next Ordinary meeting. This clause shall not apply in respect of Councillor who has been granted leave of absence pursuant to section 69 of the Act and who has not requested the Chief Executive Officer, in writing, to continue to give notice of meetings to be held during the period of leave of absence;
- 74.2 if no Councillor indicates opposition, the minutes must be declared to be confirmed;
- 74.3 if a Councillor indicates opposition to the minutes:
 - 74.3.1 he or she must specify the item(s) to which he or she objects and propose the amended wording;
 - 74.3.2 the objected item(s) must be considered separately and in the order in which they appear in the minutes;
 - 74.3.3 the Councillor objecting must move accordingly without speaking to the motion;
 - 74.3.4 the mover of the motion of objection may then speak to it;
 - 74.3.5 when all objections to the minutes have been determined, the Chairperson must ask:
 - "The question is that the minutes be confirmed" or
 - "The question is that the minutes, as amended, be confirmed",and he or she must put the question to the vote accordingly;
- 74.4 a resolution of Council must confirm the minutes and the minutes must, if practicable, be signed by the Chairperson of the Council meeting at which they have been confirmed;
- 74.5 the minutes must be entered in the minute book and each item in the minute book must be entered consecutively according to the numbering system used by Council from time to time.;

- 74.6 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
- 74.7 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:
- 74.7.1 the date, place, time and nature of the meeting;
 - 74.7.2 the names of the Councillors present;
 - 74.7.3 the names of the Officers present;
 - 74.7.4 any disclosure of a conflict of interest made by a Councillor;
 - 74.7.5 arrivals and departures (including temporary departures) of Councillors during the course of the Council meeting;
 - 74.7.6 each motion and amendment moved (including motions and amendments that lapse for the want of a seconder);
 - 74.7.7 the vote cast by each Councillor upon a division;
 - 74.7.8 when requested by a Councillor, a record of that Councillor's support or opposition for any motion; and
 - 74.7.9 the failure of a quorum.

75. 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 Council meeting to which they relate is questioned.

76. Deferral Of Confirmation Of Minutes

Council may defer the confirmation of minutes until later in the Council meeting or until the next Council meeting as appropriate.

77. Recording Of Meeting

77.1 A person must not operate photographic, audio or video recording equipment or any other recording device at any Council meeting without first obtaining the consent of the Chairperson.

Penalty: 5 penalty units.

77.2 Such consent may at any time during the course of such Council meeting be revoked by the Chairperson and a person who is recording the Council meeting must immediately cease recording.

Penalty: 5 penalty units.

- 77.3 If a Councillor disagrees with the Chairperson's decision under this clause, he or she may move a motion of dissent, in which case, clause 56 will apply as if the determination of that motion of dissent was the determination of a point of order.

DIVISION 13 - Behaviour

78. Public Addressing The Meeting

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 Chairperson whenever called on to do so.

79. Chairperson May Remove

The Chairperson may order and cause the removal of any person, including a Councillor, who disrupts any meeting or fails to comply with a direction.

80. Offences

It is an offence for:

- 80.1 a Councillor to not withdraw an expression considered by the Chairperson to be offensive or disorderly, and apologise when called on twice by the Chairperson to do so;

Penalty: 2 penalty units

- 80.2 any person, not being a Councillor, who is guilty of any improper or disorderly conduct, to not leave the Chamber when requested by the Chairperson to do so;

Penalty: 5 penalty units

- 80.3 any person who fails to comply with a direction of the Chairperson in relation to the conduct of the meeting and the maintenance of order;

Penalty: 2 penalty units

- 80.4 a Councillor to refuse to leave the Chamber on suspension.

Penalty: 5 penalty units

81. Chairperson may adjourn disorderly meeting

If the Chairperson is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the Council meeting, he or she may adjourn the Council meeting to a later time on the same day or to some later day as he or she thinks proper.

82. Suspensions

Council may, by resolution, suspend from a Council meeting, and for the balance of the meeting, any Councillor whose actions have disrupted the business of Council, and have impeded its orderly conduct.

83. Removal from Chamber

The Chairperson, or Council in the case of a suspension, may ask the Chief Executive Officer or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Local Law or whom the Chairperson has ordered to be removed from the gallery under clause 79, or whom Council has ordered be suspended from the Council meeting under clause 82.

84. Mobile telephones or pagers

84.1 Any person in attendance at a Council or committee meeting must ensure that his or her mobile telephone or audible pager is switched to, and remains, in silent mode so that the device does not make an audible sound for the duration of that meeting.

84.2 If it is absolutely urgent that a call be responded to by a Councillor or an Officer, they must seek permission of the Chairman to leave the Council meeting to make or receive a call, otherwise calls can be made during any scheduled breaks in a Council meeting.

DIVISION 14 - Additional Duties of Chairperson

85. The Chairperson's Duties And Discretions

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

85.1 must reject any motion, question or statement which is derogatory or defamatory of any Councillor, Officer or member of the community; and

85.2 must call to order any person who is disruptive or unruly during any Council meeting.

DIVISION 15 - Suspension of Standing Orders

86. Suspension of Standing Orders

86.1 To expedite the business of a Council meeting, the Chairperson may indicate an intention to suspend standing orders and may proceed on that basis if Council resolves to do so.

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

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

86.4 It should not be used purely to dispense with the processes and protocol of the government of Council. An appropriate motion would be:

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

86.5 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 - Special Committees

87. Application Generally

- 87.1 If Council establishes a Special Committee or an Advisory Committee, all of the provisions of Divisions 1-15 of this Local Law shall apply with any necessary modifications or adaptations.
- 87.2 For the purposes of clause 87.1, a reference in Division 1-15 of this Local Law to:
- 87.2.1 a Council meeting is to be read as a reference to a meeting of the Special Committee or the Advisory Committee (as the case may be);
 - 87.2.2 a Councillor is to be read as a reference to a Member; and
 - 87.2.3 the Mayor is to be read as a reference to the Chairperson of the Special Committee or Advisory Committee (as the case may be).

88. Application Specifically

Notwithstanding clause 87, if Council establishes a Special Committee or an Advisory Committee:

- 88.1 Council may; or
- 88.2 the Special Committee, or the Advisory Committee may, with the approval of Council,
- resolve that any provision(s) of Divisions 1-15 is or are (as appropriate) not to apply, whereupon that provision or those provisions shall not apply until Council resolves otherwise.

Local Law Community Impact Statement

Meeting Procedure Local Law 2018

Council provides the following information to the community in respect of the proposed Local Law.

PART A – General comments

Background

Bass Coast Shire Council has undertaken a review of its Meeting Procedure Local Law, including a review by Council's lawyers.

Section 91(1) of the Local Government Act 1989 (*the Act*) states that a council must make a Local Law governing the conduct of Council and Special Committee meetings. Council is also required to regulate use of its Common Seal by way of a Local Law.

The Local Law is made under section 111(1) of the Act.

Council's existing Meeting Procedure Local Law was adopted by Council in 2009. Since this time, there have been a number of amendments to the Act that have necessitated a review of the existing Local Law.

Objectives

The objectives of the proposed Local Law are to:

- regulate the use of the common seal;
 - regulate proceedings for the election of the Mayor and Chairpersons of various Committees;
 - regulate proceedings at Council meetings, Committee meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of the Local Law are to apply;
 - make provision for related administrative procedures; and
 - provide for peace, order and good government of the municipal district.
-

Consultation

The draft Bass Coast Shire Council Meeting Procedure Local Law 2017 will be presented to Council for endorsement to enable it to be released for public exhibition for at least 28 days during which members of the community are invited to make written submissions as per the requirements of Section 119 and Section 223 of the Act.

Those submitters who indicate that they wish to talk to their submissions in relation to the draft local law will be invited to address Council at its next Council meeting.

Following consideration of any submissions, the Bass Coast Shire Council Meeting Procedure Local Law 2018 will be presented to Council for adoption.

PART B – Comments on proposed Local Law overall

<p>Measures of success of proposed Local Law</p>	<p>The success of this proposed Local Law will be best measured by the extent to which it enhances the governance framework and decision making processes of the Council, including:</p> <ul style="list-style-type: none"> • that Council meetings operate openly and transparently; • that the overall objectives of the Local Law are met; • that compliance with the Act is achieved.
<p>Existing legislation which might be used instead</p>	<p>There is no existing legislation that could be used instead of the Local Law</p> <p>The proposed Local Law has been prepared in accordance with requirements of section 91(1) of the Act which requires Council to make a Local Law governing the conduct of Council meetings and Special meetings and regulate the use of the Common Seal.</p> <p>Except as provided for in the Act, the conduct of meetings is at the discretion of Council.</p>
<p>State legislation more appropriate</p>	<p>There is no other State legislation that is more appropriate.</p>
<p>Overlap of existing legislation</p>	<p>It is not considered that the Local Law overlaps existing legislation, rather it operates in conjunction with the requirements of the Act.</p>
<p>Overlap of planning scheme</p>	<p>There is no overlap with the Bass Coast Shire Planning Scheme.</p>
<p>Risk assessment</p>	<p>The development of the proposed Local Law ensures compliance with the Act and adheres to the principles of good governance within Council.</p> <p>Council does not believe there are any risks associated with the proposed Local Law.</p>
<p>Legislative approach adopted</p>	<p>A Meeting Procedure Local Law is required by the provisions of section 91(1) of the Act.</p> <p><u>Election of Mayor</u></p> <p>The proposed Local Law adopts a high impact regulatory approach that is highly prescriptive with no discretionary process. This is considered appropriate as it provides certainty and transparency to candidates and the community and ensures elections are conducted in a fair and equitable manner.</p> <p><u>Council's Common Seal</u></p> <p>The proposed Local Law adopts a high impact regulatory</p>

	<p>approach.</p> <p>This approach is considered appropriate as it provides clear accountability for appropriate use and safekeeping of the Council Seal.</p> <p><u>Meetings Procedure</u></p> <p>The proposed Local Law adopts a medium impact regulatory approach. Whilst being largely prescriptive, the proposed Local Law retains a level of discretion which is considered appropriate to facilitate the orderly conduct of meetings.</p>
Restriction of competition	There are no National Competition Policy implications.
Penalties	<p>The proposed Local Law creates a minimal number of offences. Penalties for these offences are considered reasonable.</p> <p>Benchmarking indicates the penalties prescribed are reasonable when compared with equivalent local laws of other municipalities.</p> <p>The penalties applying to all existing Local Law clauses were considered and reviewed and no new offences were prescribed.</p>
Permits & Fees	The proposed Local Law does not make provision for the issue of permits and does not prescribe any fees.
Performance standards or prescriptive	The preparation of the proposed Local Law has been a prescriptive approach which is considered appropriate given its purpose is to describe the procedures and processes for the Election of Mayor, use of Council's Common Seal and Council Ordinary Meeting and Special Meeting Procedures.
Comparison with neighbouring and like councils	<p>The Guidelines for Local Laws Manual prepared by Local Government Victoria have been utilised in the development of this proposed Local Law.</p> <p>Benchmarking has been conducted with a number of Victorian Councils ranging from municipal shires and regional cities through to metropolitan councils.</p> <p>The proposed Local Law is not substantially different from the Meeting Procedure Local Laws of other Victorian Councils.</p>
Charter of Human Rights	<p>Victorian Charter of Human Rights and Responsibilities Act 2006 (<i>the Charter</i>) contains twenty rights which reflect four basic principles, being freedom, respect, equality and dignity. The proposed Local Law has been reviewed for compatibility with the Charter. Particular attention was given to the following rights under the charter:</p>

	<ul style="list-style-type: none"> • Right to recognition and equality before the law • Right to privacy and reputation • Right to freedom of expression • Right to take part in public life • Right to a fair hearing <p>The proposed Local Law is considered to be compatible with the Charter.</p>
<p>Consultation</p>	<p>The proposed Local Law has been reviewed in consultation with Council staff and Council’s legal advisors.</p> <p>The proposed Local Law will also be reviewed in consultation with Councillors.</p> <p>The proposed Local Law is subject to a period of public consultation in accordance with sections 119(2) and 223 of the Act.</p>
<p>Submissions</p>	<p>The public consultation will open on for submissions During this time members of the public are invited to make written submissions as per the requirement sections 119(2) and 223 of the Act. All submissions received must be considered by Council prior to the Local Law being made. If a person wishes to be heard in support of their submission, they can appear in person before the next meeting of the Council.</p>

Local Law Community Impact Statement

Meeting Procedure Local Law 2018

Part C – Comments on specific parts or Provisions of the Proposed Local Law

This section outlines what is contained in each part of the Local Law and the proposed changes to the existing Local Law. The following notes do not comment on minor alterations or grammatical changes.

PART A – INTRODUCTION

Part A details the purpose of the Local Law and the administrative requirements for the commencement of this Local Law and revocation of the previous local law. It also provides definitions to assist in interpreting the Local Law.

1. The term ‘Member’ is defined as including members of Special Committees but not members of Advisory Committees, however, ‘Committee meeting’ is defined to include meetings of both Special Committees and Advisory Committees. We have therefore amended the definition of ‘Member’ to include members of Advisory Committees.

2. We have:

2.1 added a definition of ‘Council meeting’ to include Ordinary and Special Council meetings to ensure consistency of references throughout the draft Local Law;

2.2 added a definition of ‘majority of the votes’ for the purposes of the Mayoral election process under cl 9 of the draft Local Law;

2.3 added a definition of ‘Senior Officer’ as it is used throughout the draft Local Law; and

2.4 deleted the definition of ‘Urgent Business’ and instead included it at cl 26 of the draft Local Law.

2 added the definition of ‘Standing Orders’.

PART B - ELECTION OF THE MAYOR

Part B of the proposed Local Law provides for the election of the Mayor and Committee Chairpersons and the procedures that are required to be followed.

It also provides for the establishment and election of the Deputy Mayor role.

3. Clause 9 of the draft Local Law has been amended to remove the:

3.1 obligation on Councillors to vote for a candidate in the election of the Mayor. This ensures consistency with s 90(1) of the *Local Government Act 1989* (Act) (ie that it is open to a Councillor to abstain from voting);

3.2 reference to ‘an absolute majority of the votes’, since all that is required is a majority and the term ‘absolute majority’ has no special meaning in the context of the draft Local Law or the Act. This is accompanied by the new definition of ‘majority of the votes’; and

3.3 lot for an ‘Elected’ candidate in the event of an equality of votes. This is because the 2009 Local Law provided that, if a lot was being drawn to decide which candidate was defeated, then the word ‘Defeated’ would be written on one piece of paper. If, on the other

hand, a lot was being drawn to decide which candidate was elected, then the word 'Elected' would be written on one piece of paper. It was unclear when the lot would be to determine an 'elected' candidate or a 'defeated' candidate, or who would decide. The removal of the 'Elected' option simplifies the process.

PART C – COUNCIL'S COMMON SEAL

Part C is to regulate the use of the common seal and prohibit unauthorized use of the common seal.

PART D – MEETINGS PROCEDURE

Part D is to regulate the proceedings of Council Meetings.

This part is divided into a number of Divisions, which addresses a distinct aspect of the meeting procedures.

DIVISION 1 – Notices of Meetings and Delivery of Agendas

4. We have simplified cl 15 of the draft Local Law so that it now provides for Special Council meetings to be called in accordance with the Act. This avoids the potential for cl 15 to be inconsistent with the Act (eg in the event of amendments to the Act). It also reflects comments made by the Ombudsman, in her report titled 'Investigation into the transparency of local government decision making', to the effect that, where local law provisions only partially addressed legislative provisions, they could be misleading.

5. We have made similar amendments to cl 16 of the draft Local Law, for the reasons stated at para 4 above. We have also limited cl 16.3 so that it operates only in respect of the postponement or cancellation of Ordinary Council meetings to ensure consistency with s 84 of the Act.

We have also expanded clause 16 to include Preparation of Agendas. We have included clause 16.5 which states: The CEO will consult with the Mayor on the preparation of the agenda.

DIVISION 2 – Quorums

6. We have combined cls 18 and 19 from the 2009 Local Law.

7. We have expanded cl 20 of the draft Local Law so that, where a quorum is lost as a result of disclosures of a conflict of interest, a Council meeting is adjourned until either:

7.1 the dispensation of the Minister for Local Government is obtained; or

7.2 a quorum can otherwise be maintained in respect of the item.

This provides for circumstances where Councillors are absent from one Ordinary Council meeting but their presence at the next Ordinary Council meeting means that a quorum can be maintained without the need for a dispensation.

DIVISION 3 – Business of Meetings

9. We have added a new cl 24.2 to the draft Local Law which provides for agendas to be prepared and provided to all Councillors by Council's Chief Executive Officer (CEO) via email. This clarifies that responsibility for the order of business and agenda rests solely with the CEO and the means by which agendas will be provided.

10. Clause 24.3 of the draft Local Law provides for agendas to be given to Councillors by at least four days before the date of the relevant Council meeting. This means that:

10.2 agendas must be delivered by email at least four days prior to the relevant Council meeting.

11. We have replaced cl 26, relating to urgent business, to provide a more comprehensive process for the admission of urgent business. The 2009 Local Law did not provide for the manner in which such urgent business would be admitted at a meeting.

DIVISION 4 – Motions and Debate

12. We have clarified the number of days a notice of motion must be in writing, signed by the Councillor submitting it and submitted to the Chief Executive Officer at least 8 days prior to the Council meeting agenda being published.

13. We have expanded the grounds on which the CEO can reject a notice of motion under cl 29.2 of the draft Local Law to include notices of motion that are defamatory, offensive or beyond the powers of Council.

14. Clause 32.4 of the draft Local Law has been amended to remove the reference to a Councillor with a 'special interest' because what might constitute a 'special interest' is unclear.

16. Clause 33.1 of the draft Local Law provides for the mover of a motion *and* the mover of an amendment to have a right of reply. Many councils do not provide a right of reply for the mover of an amendment. Council might consider doing the same, if it is concerned about the time taken debating amendments during Council meetings.

17. We have clarified what can be included in an amendment.

18. Clause 49 of the draft Local Law now applies to motions to rescind *and* amend previous resolutions of Council. We think that it is preferable to have consistent processes for both rescissions and amendments.

DIVISION 5 – Procedural Motions

No material change.

DIVISION 6 – Rescission Motions

19. We have amended the circumstances under which a resolution will be deemed to be 'acted on' under cl 49.2 of the draft Local Law to include circumstances where irrevocable action has been taken by Council to implement a resolution.

20. We have deleted cl 52 of the 2009 Local Law because it is unnecessary – all resolutions of Council must be carried by a majority of the Councillors present at the time the vote is taken voting in favour of the motion (see s 90(1)(d) of the Act).

21. Clause 50 of the draft Local Law prevents a motion to rescind or amend a previous resolution that is lost being put before Council again within three months *unless* Council resolves otherwise. The capacity for Council to resolve otherwise may have the effect of delaying the implementation of resolutions if a Councillor continually submits notices of motion seeking to have the lost motion 're-listed'.

22. Clause 51 of the draft Local Law has been amended to provide that a motion to rescind or amend a previous resolution that is not moved at the Council meeting for which it is listed is deemed

to be lost. This means that the three-month limit under cl 50 will operate in respect of it.

23. Clause 53 of the draft Local Law sets out the circumstances in which a notice of motion for rescission or amendment is not required, however, it is somewhat unclear in its terms. We have therefore substantially it to address these concerns.

DIVISION 7 – Points of Order

24. We have amended cl 56 of the draft Local Law so that it provides for the Deputy Mayor to take the Chair or, if there is no Deputy Mayor, for a temporary Chairperson to be elected for the purpose.

25. We have amended 57.1 to clarify the use of ‘point of order’

DIVISION 8 – Public Question Time

26. We have simplified cl 60.7 of the draft Local Law so that the new cl 60.7.6 refers to matters in respect of which Council can close meetings to the public under s 89(2) of the Act.

27. Clause 60.11 has been amended to clarify the manner in which a question will be addressed if Council determines that it should be answered in an Ordinary Council meeting that is closed to the public.

DIVISION 9 – Petitions and Joint Letters

28. Allows for Council to receive online petitions in cl 61.1 and 61.4 of the draft Local Law.

DIVISION 10 – Deputations

No material change.

DIVISION 11 – Voting

29. Clause 71 of the draft Local Law has also been amended to provide for any Councillor who abstains from voting to be recorded in the event of a division.

30. We have amended cl 72 of the draft Local Law to clarify the circumstances under which there may be discussion after a vote has been taken.

DIVISION 12 – Minutes

31. Clause 74.3.5 provides that a motion on the accuracy of the minutes of a Council meeting is open to debate. Permitting debate on the accuracy of the minutes may lead to substantive debate on matters that have already been decided by Council (ie not simply accuracy of the minutes). This clause has been deleted.

32. We have deleted cl 78 of the 2009 Local Law because it repeats what is already addressed by cl 73.

33. We have amended cl 77 of the draft Local Law so that it is for the Chairperson to grant or refuse permission for recording (to avoid the need for a resolution of Council). We have also added a new cl 77.3 which provides for a Councillor who disagrees with the Chairperson’s decision to move a motion of dissent in the same manner as if the decision were determination of a point of order.

DIVISION 13 – Behaviour

34. Clause 79 of the draft Local Law now provides that the Chairperson may order and cause the removal of any person *except* a Councillor from the Council meeting. This ensures consistency with cl 82 of the draft Local Law dealing with the suspension of Councillors.

35. Clause 88 of the 2009 Local Law prohibited the use of a 'mobile computing device'. It is unclear what a 'mobile computing device' is, however, given the technology currently available to, and regularly used by, Councillors, this clause seems outdated and we have therefore deleted it from the draft Local Law.

DIVISION 14 – Additional Duties of Chairperson

No material change.

DIVISION 15 – Suspension of Standing Orders

No material change.

DIVISION 16 – Special Committees

36. While cl 87 of the draft Local Law provides for its application to Special Committees, there is no reference to its application to Advisory Committees. Given the terms of cl 87, this appears to be an oversight. We have therefore amended cl 87 to include Advisory Committees.