

**Bayside City Council**

**Local Law No. 1  
2009**

**Governance Local Law**

Version 6.  
24 November 2009

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## PART A - INTRODUCTION

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### 1. Title

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

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### 2. Purpose of this Local Law

The purpose of this Local Law is to:

- (a) provide for the election of the *Mayor*;
  - (b) regulate the use of the *common seal*;
  - (c) prohibit unauthorised use of the *common seal* or any device resembling the *common seal*;
  - (d) provide for the procedures governing the conduct of *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings;
  - (e) set the rules of behaviour for those participating in or present at *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings; and
  - (f) provide for the role of the *Mayor* and any Deputy Mayor.
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### 3. Authorising Provision

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

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### 4. Commencement and End Dates

This Local Law:

- (a) commences on the day following the day on which notice of the making of this Local Law is published in the *Victoria Government Gazette*, and operates throughout the *municipal district*; and
  - (b) ends on the 10<sup>th</sup> anniversary of the day on which it commenced operation.
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### 5. Revocation of Local Law No. 1 of 2006

On the commencement of this Local Law, Council's Meeting Procedure Local Law No. 1 of 2006 is revoked.

## 6. Definitions and Notes

(1) In this Local Law:

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

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

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

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

"business day" means a day which is not a Saturday, Sunday or public holiday;

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

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

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

"Council" means Bayside City Council;

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

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

"Mayor" means the Mayor of *Council*;

"minute book" means the collective record of proceedings of *Council*;

"municipal district" means the municipal district of *Council*;

"notice of motion" means a notice setting out the text of a motion, which it is proposed to move at the next relevant meeting;

"notice of rescission" means a *notice of motion* to rescind a resolution made by *Council*;

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

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

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

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

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

“*Urgent Business*” means business which:

- (a) relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
- (b) cannot safely or conveniently be deferred until the next *Ordinary meeting*

which *Council* has resolved to admit as urgent business;

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

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

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

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## **PART B - ELECTION OF MAYOR**

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

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### **7. Election of the *Mayor***

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

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## 8. Method of Voting

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

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## 9. Determining the election of the *Mayor*

- (1) The *Chief Executive Officer* must open the meeting at which the *Mayor* is to be elected, and invite nominations for the office of *Mayor*.
- (2) Any nomination for the office of *Mayor* must be seconded.
- (3) Once nominations for the office of *Mayor* have been received, the following provisions will govern the election of the *Mayor*:
  - (a) if there is only 1 nomination, the candidate nominated is deemed to be elected;
  - (b) if there is more than 1 nomination, the Councillors present at the meeting must vote for 1 of the candidates;
  - (c) in the event of a candidate receiving an absolute majority of the votes, that candidate is declared to have been elected;
  - (d) in the event that no candidate receives an absolute majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. The Councillors present at the meeting must then vote for one of the remaining candidates;
  - (e) if 1 of the remaining candidates receives an absolute majority of the votes, he or she is duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until 1 of the candidates receives an absolute majority of the votes. That candidate must then be declared to have been duly elected;
  - (f) in the event of 2 or more candidates having an equality of votes and 1 of them having to be declared:
    - (i) a defeated candidate; and
    - (i) duly electedthe declaration will be determined by lot.
  - (g) if a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
    - (i) each candidate will draw 1 lot;

- (ii) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes except that if 2 or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
- (iii) as many identical pieces of paper as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on 1 of the pieces of paper, and the Councillor who draws the paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected).

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## 10. Election of Deputy Mayor and *Chairs*

- (1) At a meeting to elect the *Mayor*, *Council* may determine to elect a Deputy Mayor.
- (2) Any election for:
  - (a) the office of Deputy Mayor; or
  - (b) temporary *Chair*, in cases where the *Mayor* and any Deputy Mayor is absent from a *Council meeting*

will be regulated by clauses 7-9 (inclusive) of this Local Law, as if, in the case of any election for Deputy Mayor, the reference to the:

- (c) *Chief Executive Officer* is a reference to the *Mayor*; and
- (d) *Mayor* is a reference to the Deputy Mayor.

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## 11. Role Statement for the *Mayor*, Deputy Mayor and Councillors

- (1) *Council* may, from time to time by resolution, adopt a role statement for the *Mayor*, and if it chooses to elect a Deputy Mayor, a role statement for the Deputy Mayor.
- (2) This role statement will set out *Council's* expectations for the person elected to the position of *Mayor* and any position of Deputy Mayor.
- (3) *Council* may also from time to time by resolution adopt a role statement for Councillors.

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## PART C - COUNCIL'S COMMON SEAL

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

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### 12. Council's Common Seal

- (1) The *Chief Executive Officer* must ensure the security of the *common seal* at all times.
- (2) The affixing of the *common seal* to any document must be attested to by not less than two persons, comprising both:
  - (a) the *Mayor* and *Chief Executive Officer*, or
  - (b) in the absence of the *Mayor*, by one Councillor and the *Chief Executive Officer* or a member of Council staff delegated this function by *Council*.
- (3) Where *Council* authorises the *common seal* to be affixed to any document, the *Chief Executive Officer* must:
  - (a) cause the sealed document to be allocated a seal register number; and
  - (b) ensure that a description of the document sealed is entered into the seal register.
- (4) Where the *common seal* is affixed to a document on the authority of *Council*, the sealing clause must contain the following words:

The Common Seal of **BAYSIDE CITY COUNCIL**  
was affixed this ..... (no. of day).....(month)  
.....(year) in the presence of:

.....Mayor/Councillor

.....Chief Executive Officer

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## PART D – COUNCILLOR BRIEFINGS

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

At the commencement of this Local Law, Councillors meet monthly at "Councillor Briefings". These are "Assemblies of Councillors" within the meeting of the *Act*.

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

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### 13. Councillor Briefing Arrangements

- (1) As part of *Council's* governance arrangements, Councillors may meet regularly at an informal gathering of Councillors known as a "Councillor Briefing" or such other name as *Council* from time to time adopts.
- (2) The purpose of such gatherings is for the organisation to provide advice to Councillors on items of a complex nature or of significant community impact. The briefing enables open discussion between the organisation and Councillors and assists both *Council* staff and Councillors develop better understanding of the matter for consideration.
- (3) The gathering is not a decision-making forum.
- (4) The gatherings are not open to the public and will generally be held in the Corporate Centre or in such other locations as *Council* nominates from time to time.
- (5) The operating meeting protocols and arrangements in relation to these gatherings will be reviewed from time to time and be subject to resolution of *Council*.

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## PART E - MEETINGS PROCEDURE

**Introduction:** This Part is divided into a number of Divisions. Each Division addresses a distinct aspect of the holding of a meeting. Collectively, the Divisions describe how and when a meeting is convened, when and how business may be transacted at a meeting.

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### DIVISION 1 - NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

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#### 14. Dates and Times of Meetings

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

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## 15. Council May Alter Ordinary Meeting Dates

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

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## 16. Special Meetings

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

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

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

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## 17. Notice Of Meeting

- (1) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for all *Ordinary meetings* at least 48 hours before the meeting.
- (2) A notice of meeting, incorporating or accompanied by an *agenda* of the business to be dealt with, must be delivered or sent electronically to every Councillor for any *Special meeting* within a reasonable time of the *Special meeting* being called. Generally, this means that a notice of meeting must be delivered to every Councillor at least 48 hours before the meeting. A period less than 48 hours may, however, be justified if exceptional circumstances exist.

- (3) Notwithstanding sub-clauses (1) and (2), a notice of meeting need not be served on any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in writing to continue to give notice of any meeting during the period of his or her absence.
- (4) Reasonable notice of each *Ordinary meeting* and *Special meeting* must be provided to the public. *Council* may do this:
  - (a) for *Ordinary meetings* by preparing a schedule of meetings annually, twice yearly or from time to time, and arranging publication of such schedule in a local newspaper either at various times throughout the year, or prior to each *Ordinary meeting*; and
  - (b) for any meeting by giving notice:
    - (i) in at least one local newspaper or daily metropolitan newspaper;
    - (ii) on its website; and
    - (iii) or unless time does not allow this to occur in a newspaper, in which case the posting of a notice setting out the details must be displayed on Council's website.
- (5) The *Chief Executive Officer* may include any matter on an agenda of a *Council meeting* which he or she considers, following consultation with the *Chair*, should be dealt with at that following *Council meeting*.
- (6) Copies of the agenda and any related material for *Ordinary meetings*, *Special meetings* and *Special Committee* meetings must be made available to members of the public not less than 48 hours prior to the meeting at the Corporate Centre and branch libraries and on *Council's* website.

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## DIVISION 2 – QUORUMS

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### 18. **Ordinary Meetings**

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

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### 19. **Special Meetings**

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

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### 20. **Inability To Obtain A Quorum**

If, after 30 minutes from the scheduled starting time of any *Ordinary meeting* or *Special meeting*, a quorum cannot be obtained:

- (a) the meeting will be deemed to have lapsed;
- (b) the *Mayor* must convene another *Ordinary meeting* or *Special meeting* (as the case may be), the *agenda* for which will be identical to the *agenda* for the lapsed meeting; and

- (c) the *Chief Executive Officer* must give all Councillors notice of the meeting convened by the *Mayor*.

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## 21. Inability To Maintain A Quorum

If during any *Ordinary meeting* or *Special meeting* or any adjournment of the meeting, a quorum cannot be maintained then clause 20 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

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## 22. Inability To Achieve Or Maintain A Quorum Due To Conflicts of Interest Of Councillors

If a quorum cannot be achieved or maintained due to the disclosure of conflicts of interest by one or more Councillors, the *Chair* must:

- (a) defer the item of business in respect of which there is or is likely to be a disclosure of a conflict of interest by one or more Councillors, and direct the *Chief Executive Officer* to include that item of business on an agenda for a future *Council meeting*; or
- (b) adjourn the meeting for a length of time sufficient to enable dispensation for the affected Councillors to be obtained from the Minister administering the *Act*.

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## 23. Adjourned Meetings

- (1) The *Chief Executive Officer* must give notice to each Councillor of the date, time and place to which the meeting stands adjourned and of the business remaining to be considered.
- (2) If it is impracticable for the notice given under sub-clause (2) to be in writing, the *Chief Executive Officer* must give notice to each Councillor by telephone or in person.
- (3) Notice must also be provided to the public of the resumption of the adjourned meeting by either public notice (if time reasonably permits) including Council's website.

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## 24. Time limits for Meetings

- (1) An *Ordinary meeting* and *Special meeting* must not continue after 11.00 pm unless a majority of Councillors present vote in favour of its continuance.
- (2) Notwithstanding sub-clause (1), a motion to continue the meeting need not be moved until after consideration of that item of business which was before the meeting at 11.00 pm.
- (3) A meeting cannot be continued for more than 30 minutes.
- (4) In the absence of such continuance, the meeting must stand adjourned to a time, date and place announced by the *Chair* immediately prior to the meeting standing adjourned. In that event, the provisions of clause 23(1) and 23(2) apply.

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## 25. Cancellation or Postponement of a Meeting

- (1) The *Chief Executive Officer* may, in the case of an emergency necessitating the cancellation or postponement of a *Council meeting* or *Special Committee* meeting, cancel or postpone an *Ordinary meeting* or a *Special meeting* or a *Special Committee* meeting.
- (2) The *Chief Executive Officer* must present a written report to the immediately following *Ordinary meeting*, *Special meeting* or a *Special Committee* meeting on any exercise of the power conferred by sub-clause (1).

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## DIVISION 3 – BUSINESS OF MEETINGS

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### 26. The Order Of Business

Unless *Council* resolves otherwise, the order of business at an *Ordinary meeting* will be:

- (1) Council Prayer;
- (2) Acknowledgment of Original Inhabitants;
- (3) Apologies;
- (4) Disclosure of any Conflict of Interest of any Councillor;
- (5) Adoption and Confirmation of the minutes of previous meeting;
- (6) Public Question Time;
- (7) Petitions to *Council*;
- (8) Minutes of *Advisory Committees*;
- (9) Reports by:
  - (a) *Special Committees*;
  - (b) the organisation; and
  - (c) *delegates*;
- (10) *Urgent Business*;
- (11) *Notices of Motion*; and
- (12) Confidential Business.

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### 27. Change To Order Of Business

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

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## 28. Conflicts of Interest

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

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

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

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

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## 29. Urgent Business

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* and only then if it:

- (a) relates to or arises out of a matter which has arisen since distribution of the *agenda*; and
- (b) cannot safely or conveniently be deferred until the next *Ordinary meeting*.

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## 30. Reports of Delegates

- (1) A Councillor or member of *Council* staff who is a *delegate* may present to *Council* on the deliberations of the external body, association, group or working party in respect of which he or she is a *delegate*.
- (2) In presenting, the Councillor may for up to 3 minutes:
  - (a) address *Council* on the contents of any *written* report which the Councillor has submitted for inclusion in the *agenda*; or
  - (b) provide a verbal report on any matters otherwise arising out of the deliberations of the external body, association, group or working party.

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# DIVISION 4 – MOTIONS AND DEBATE

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## 31. Councillors May Propose *Notices Of Motion*

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

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### 32. Notice Of Motion

- (1) A *notice of motion* must be in writing signed by a Councillor, and be lodged with the *Chief Executive Officer* by no later than 12 noon at least 4 business days before the meeting at which it is intended to be considered.
- (2) The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda*.
- (3) The *Chief Executive Officer* must cause all *notices of motion* to be numbered, dated and entered in the *notice of motion* register in the order in which they were received.
- (4) Except by leave of *Council*, each *notice of motion* before any meeting must be considered in the order in which they were entered in the notice of motion register.
- (5) If a Councillor who has given a *notice of motion* is absent from the meeting or fails to move the motion when called upon by the *Chair*, any other Councillor may move the motion.
- (6) If a *notice of motion* is not moved at the meeting at which it is listed, it lapses.
- (7) If a *notice of motion* is moved but not seconded, it lapses.
- (8) Except where the *notice of motion* is to confirm a previous resolution of *Council*, the *notice of motion* may be amended.
- (9) If the Councillor who has lodged or is moving a *notice of motion* wishes to amend it, he or she may do so by seeking leave of *Council* to amend the *notice of motion* prior to it being seconded.
- (10) Once a *notice of motion* has been moved and seconded, the mover cannot amend it.
- (11) Notwithstanding sub-clause (10) another Councillor may move an amendment to the *notice of motion*, which motion must be dealt with in accordance with clause 35 of this Local Law.
- (12) No member of the public may speak to a *notice of motion* when presented at an *Ordinary meeting* or a *Special meeting*. Individuals may request to speak to issues associated with the *notice of motion* under Division 10 in the event of a report on the item being considered by a *Special Committee* at a later meeting.

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### 33. Chair's Duty

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

- (a) defamatory;
- (b) objectionable in language or nature;
- (c) vague or unclear in intention;
- (d) outside the powers of *Council*; or
- (e) irrelevant to the item of business on the *agenda* and has not been admitted as *urgent business*, or purports to be an amendment but is not,

must not be accepted by the *Chair*.

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### 34. Introducing A Motion or an Amendment

- (1) The procedure for moving any motion or amendment is:
  - (a) the mover must state the motion without speaking to it;
  - (b) the motion must be seconded and the seconder must be a Councillor other than the mover. If a motion is not seconded, the motion lapses for want of a seconder;
  - (c) if a motion or an amendment is moved and seconded the *Chair* must ask:

"Is the motion or amendment opposed? Does any Councillor wish to speak to the motion or amendment?"
  - (d) if no Councillor indicates opposition or a desire to speak to it, the *Chair* may declare the motion or amendment carried without discussion;
  - (e) if a Councillor indicates opposition or a desire to speak to it, then the *Chair* must invite on the mover to address the meeting;
  - (f) after the mover has addressed the meeting, the seconder may address the meeting;
  - (g) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting,) the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
  - (h) if, after the mover has addressed the meeting, the *Chair* has invited debate and no Councillor speaks to the motion, then the *Chair* must put the motion to the vote.
- (2) No discussion on the item being considered may take place until such time as a motion is before the *Chair*. Questions of clarification may be asked of the Chairperson or members of *Council* staff present at the meeting;
- (3) The chair is unable to move or second a motion, and may only if necessary debate a motion when all Councillors who wish to speak to it have done so, and just before closure of debate by the mover of the motion
- (4) If the chair wishes to move, or second a motion then the Mayor or Deputy Mayor must take the Chair or, if there is no Mayor or Deputy Mayor the meeting must elect a temporary Chair where upon the Chair must vacate the Chair and not return to it until the motion has been resolved upon.

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### 35. Right Of Reply

- (1) The mover of a motion has a right of reply to matters raised during debate.
- (2) After the right of reply has been taken but subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion, the motion must immediately be put to the vote without any further discussion or debate.

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

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### **36. Moving An Amendment**

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

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### **37. Who May Propose and Debate An Amendment**

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

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### **38. How Many Amendments May Be Proposed**

- (1) Any number of amendments may be proposed to a motion but only 1 amendment may be accepted by the *Chair* at any one time.
- (2) No second or subsequent amendment, whether to the motion or an amendment of it, may be taken into consideration until the previous amendment has been dealt with.

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### **39. An Amendment Once Carried**

- (1) If the amendment is carried, the motion as amended then becomes the motion before the meeting, and the amended motion must then be put.
- (2) The mover of the original motion retains the right of reply to that motion.

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### **40. Foreshadowing Motions**

- (1) At any time during debate a Councillor may foreshadow a motion so as to inform *Council* of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.

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

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#### **41. Withdrawal Of Motions**

- (1) Before any motion is put to the vote, it may be withdrawn by the mover and seconder with leave of *Council* in which case, the *Chair* must call for a substitute mover and seconder and, if no such substitute is forthcoming, the motion will lapse.
- (2) If a majority of Councillors objects to the withdrawal of the motion, it may not be withdrawn.

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#### **42. Separation Of Motions**

Where a motion contains more than 1 part, a Councillor may request the *Chair* to put the motion to the vote in separate parts.

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#### **43. Chair May Separate Motions or Allow Motions to be Moved in Block**

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

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#### **44. Priority of address**

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

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#### **45. Motions In Writing**

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

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#### **46. Repeating Motion and/or Amendment**

The *Chair* may request the person taking the minutes of the meeting to read the motion or amendment to the meeting before the vote is taken.

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**47. Debate Must Be Relevant To The Motion**

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

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**48. Speaking Times**

- (1) A Councillor must not speak longer than the time set out below, unless granted an extension by *Council*:
  - (a) the mover of a motion or an amendment: 4 minutes;
  - (b) the seconder of a motion or an amendment: 4 minutes;
  - (c) any other Councillor: 4 minutes;
  - (d) the mover of a motion exercising a right of reply: 2 minutes.
  - (e) a Councillor 's answer to a question by another Councillor: 1 minute; and
  - (f) a Councillor when clarifying a matter or giving a personal explanation: 1 minute.
- (2) Only one extension is permitted for each speaker.
- (3) A motion to extend the speaking time cannot be moved:
  - (a) until the original speaking time has expired; and
  - (b) if another speaker has already commenced his or her contribution to the debate,and must be seconded.
- (4) Any extended speaking time must not exceed 1 minute.
- (5) All speakers must be timed, and a warning signal sound when 30 seconds of the allocated time is remaining.

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**49. Addressing the Meeting**

- (1) If the *Chair* so determines:
  - (a) any person addressing the *Chair* must refer to the *Chair* as:
    - (i) Madam Mayor; or
    - (ii) Mr Mayor; or
    - (iii) Madam Chair; or

- (iv) Mr Chair  
as the case may be;
  - (b) all Councillors, other than the *Mayor*, must be addressed as  
**Cr \_\_\_\_\_ (name).**
  - (c) all members of Council staff, must be addressed as Mr or Ms  
\_\_\_\_\_(name) as appropriate or by their official title.
- (2) Except for the *Chair*, any Councillor who addresses the meeting at an *Ordinary meeting* or *Special meeting* must stand and direct all remarks through the *Chair*.
  - (3) It will not be necessary for Councillors to rise when speaking to the *Chair* at a *Special Committee* meeting or matters considered in a closed meeting of *Council (Confidential Business)* in accordance with section 89(2) of the *Act*.
  - (4) Despite sub-clause (2), the *Chair* may permit any Councillor or person to remain seated while addressing the *Chair* at an *Ordinary meeting* or *Special meeting* for reasons of sickness, infirmity, disability or otherwise at his or her discretion.

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## 50. Right to Ask Questions

- (1) A Councillor may, when no other Councillor is speaking, ask any question concerning or arising out of the motion or amendment before the Chair.
- (2) The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

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## DIVISION 5 – PROCEDURAL MOTIONS

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### 51. Procedural Motions

- (1) Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chair*.
- (2) Procedural motions require a seconder.
- (3) Notwithstanding any other provision in this Local Law, procedural motions must be dealt with in accordance with the following table:

**PROCEDURAL MOTIONS TABLE**

<b>Procedural Motion</b>	<b>Form</b>	<b>Mover &amp; Secunder</b>	<b>When Motion Prohibited</b>	<b>Effect if Carried</b>	<b>Effect if Lost</b>	<b>Debate Permitted on Motion</b>
1. Adjournment of debate to later hour and/or date and place	That this matter be adjourned to *am/pm and/or *date	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking	Motion and amendment is postponed to the stated time and/or date	Debate continues unaffected	Yes
2. Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	(a) During the election of a <i>Chair</i> ; (b) When another Councillor is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made for that meeting in accordance with section 85 of the <i>Act</i> , or (d)When the motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and any amendment postponed but may be resumed at any later meeting if on the agenda	Debate continues unaffected	Yes

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
3. The closure	That the motion be now put	Any Councillor who has not moved or seconded the original motion or otherwise spoken to the original motion	During nominations for <i>Chair</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without debate of this motion, subject to any Councillor exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No

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## DIVISION 6 – RESCISSION MOTIONS

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### 52. Notice of Rescission

- (1) A Councillor may propose a *notice of rescission* provided:
- (a) it has been signed and dated by at least 3 Councillors;
  - (b) the resolution proposed to be rescinded has not been acted on; and
  - (c) the *notice of rescission* is delivered or sent electronically to the *Chief Executive Officer* within 48 hours of the meeting at which the resolution was made setting out -
    - (i) the resolution to be rescinded; and
    - (ii) the meeting and date when the resolution was carried.

*It should be remembered that a notice of rescission is a form of notice of motion.*

*Accordingly, all provisions in the Local Law regulating notices of motion equally apply to notices of rescission.*

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

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

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

unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

*By way of example, assume that, on a Monday evening, Council resolves to have legal representation at a planning appeal to be heard on the following Monday. Assume also that, immediately after that resolution is made, a Councillor lodges a notice of motion to rescind that resolution. Finally, assume that the notice of rescission would not be dealt with until the next Monday evening (being the evening of the day on which the planning appeal is to be heard).*

*In these circumstances, deferring implementation of the resolution would have the effect of depriving the resolution of efficacy. This is because the notice of rescission would not be debated until after the very thing contemplated by the resolution had come and gone. In other words, by the time the notice of rescission was dealt with the opportunity for legal representation at the planning appeal would have been lost.*

*Clause 52(3) would, in such circumstances, justify the Chief Executive Officer or an appropriate member of Council staff actioning the resolution rather than deferring implementation of it.*

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**53. If Lost**

If a motion for rescission is lost, a similar motion may not be put before *Council* for at least 90 days from the date it was last lost, unless *Council* resolves that the *notice of motion* be re-listed at a future meeting.

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**54. If Not Moved**

If a motion for rescission is not moved at the meeting at which it is listed, it lapses and a similar motion may not be put before *Council* for at least 90 days from the date on which it lapsed.

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**55. May Be Moved By Any Councillor**

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

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**56. When Not Required**

- (1) Unless sub-clause (2) applies, a motion for rescission is not required where *Council* wishes to change policy.
- (2) The following standard should apply if *Council* wishes to change policy:  
  
if the policy has been in force in its original or amended form for less than 12 months, a *notice of rescission* must be presented to *Council*.

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## DIVISION 7 – POINTS OF ORDER

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### 57. Valid Points of Order

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

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

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

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### 58. Procedure For Point Of Order

A Councillor raising a point of order must:

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

before resuming his or her seat.

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### 59. Chair To Decide

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

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### 60. Chair May Adjourn To Consider

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

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## 61. Effect of Ruling

If the *Chair*:

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

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## 62. Dissent From *Chair's* Ruling

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

"That the *Chair's* ruling [setting out that ruling or part of that ruling] be dissented from".
- (2) When a motion in accordance with this clause is moved and seconded:
  - (a) the *Chair* must leave the chair and any Deputy Mayor must chair the meeting; or if there is no Deputy Mayor
  - (b) the *Chair* must leave the chair after the meeting has elected a temporary *Chair*.
- (3) The Deputy Mayor or the temporary *Chair* must invite the mover to state the reasons for his or her dissent and the *Chair* may then reply.
- (4) The Deputy Mayor or the temporary *Chair* must put the motion in the following form:  

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

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## DIVISION 8 – PUBLIC QUESTION TIME

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### 63. Question Time

- (1) There must be a public question time at every *Ordinary meeting* to enable members of the public to submit questions to *Council*.
- (2) Sub-clause (1) does not apply during any period when a meeting is closed to members of the public in accordance with section 89(2) of the *Act*.
- (3) Public question time will not exceed 15 minutes in duration.

- (4) Questions submitted to *Council* must be:
  - (a) in *writing*, state the name and address of the person submitting the question and generally be in a form approved or permitted by *Council*; and
  - (b) lodged at the Council offices by 11.00 am on the day immediately preceding the day of the *Ordinary meeting*, or be lodged electronically at the email address prescribed by *Council* prior to 11.00 am on the day immediately preceding the day of the *Ordinary meeting*.
- (5) No person may submit more than 2 questions at any 1 meeting. A question may be split into a maximum of two parts only. If more than two parts to a question are received, only the first two parts will be considered. Similarly, if more than two questions are received, only the first two questions will be considered. All parts of the question must be relevant to the same subject of enquiry.
- (6) The *Chair* must read to those present at the meeting a question which has been submitted in accordance with this clause.
- (7) Notwithstanding sub-clause (6), the *Chair* may refrain from reading a question or having a question read if the person who submitted the question is not present in the gallery at the time when the question is due to be read.
- (8) A question may be disallowed by the *Chair* if the *Chair* determines that it:
  - (a) relates to a matter outside the duties, functions and powers of *Council*;
  - (b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (c) deals with a subject matter already answered;
  - (d) is aimed at embarrassing a Councillor or a member of *Council* staff;
  - (e) relates to personnel matters;
  - (f) relates to the personal hardship of any resident or ratepayer;
  - (g) relates to industrial matters;
  - (h) relates to contractual matters;
  - (i) relates to proposed developments;
  - (j) relates to legal advice;
  - (k) relates to matters affecting the security of *Council* property; or
  - (l) relates to any other matter which *Council* considers would prejudice *Council* or any person.
- (9) Any question which has been disallowed by the *Chair* must be made available to any other Councillor upon request.
- (10) All questions and answers must be as brief as possible, and no further questions arising out of anything said will be allowed.
- (11) Like questions may be grouped together and a single answer provided.

- (12) The *Chair* may request the *Chief Executive Officer* to respond to a question.
- (13) The *Chair* or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, a *written* copy of the answer must be sent to the person who asked the question.
- (14) The name of the questioner, the question and the response must be recorded in the minutes, as an official record of the questions submitted to the meeting.

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## DIVISION 9 – PETITIONS

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### 64. Petitions

- (1) Unless *Council* determines to consider it as an item of *urgent business*, no motion (other than a motion to receive the same) may be made on any petition until the next *Ordinary meeting* after that at which it has been presented.
- (2) It is incumbent on every Councillor presenting a petition to acquaint himself or herself with the contents of that petition, and to ascertain that it does not contain language disrespectful to *Council* and that the contents do not violate any Local Law of *Council*.
- (3) Every Councillor presenting a petition to *Council* must:
  - (a) confine himself or herself to a statement of the persons from whom it comes, the number of signatories to it, the material matters expressed in it and the text of the prayer or request.
- (4) Every petition presented to *Council* must be written (other than pencil), contain the request of the petitioners or signatories and be signed by at least 3 people.
- (5) A petition must include a prayer on every page of a petition, consisting of the following words:

*“We the undersigned hereby petition Bayside City Council .....*”
- (6) Every petition 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.
- (7) Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by *Council*.
- (8) A copy of the text of the petition shall be included on the agenda for the next *Ordinary meeting*.
- (9) Every page of a petition must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition.

- (10) The only motions that may be moved in relation to petitions set out in the *agenda* are:
  - (a) That the petition be received;
  - (b) That the petition be referred to an appropriate Committee for consideration and report;
  - (c) That the petition be considered at a specific time or in conjunction with a specific item;
  - (d) That the petition be dealt with in conjunction with another item on the agenda; and
  - (e) That the petition be referred to the *Chief Executive Officer* for consideration and response.
- (11) If a petition relates to an operational matter, *Council* must refer it to the *Chief Executive Officer* for consideration.
- (12) No member of the public is permitted to speak to the petition when presented at an *Ordinary meeting*. Individuals may request to speak to the petition when any report on the item is considered by a *Special Committee* at a later meeting.

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## DIVISION 10 – INDIVIDUAL PRESENTATIONS

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### 65. Individual presentations to *Special Committee Meetings* and *Ordinary Meetings*

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

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### 66. Time of Request

- (1) A written request must be delivered or sent electronically to the *Chief Executive Officer* or any member of *Council staff* nominated by him or her before 11.00 am on the day of the designated *Special Committee* or the *Ordinary meeting*.
- (2) The request to be heard must specify the name, address and contact telephone number of the person requesting to be heard and the item to which he or she wishes to speak.
- (3) Requests received after 11.00am on the day of the meeting will not be considered by the *Special Committee* or *Council* (as the case may be).

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**67. When a presentation can be made**

A person may only present to:

- (a) an *Ordinary meeting* in relation to an item listed in the *agenda* under 'Reports by the organisation', and even then not if the item is in the nature of a report summarising a decision already made by another body; or
- (b) a *Special Committee* in relation to an item listed on the *agenda* for the meeting of the *Special Committee*.

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**68. Limitations upon Speakers**

If a *Special Committee* or *Council* at an *Ordinary meeting* determines to hear from an individual:

- (1) the person addressing the *Special Committee* or *Ordinary meeting* cannot speak for more than 3 minutes and no further extension of time can be granted;
- (2) where an individual has requested than another individual speak on his or her behalf, the spokesperson will only be allocated one further time slot in addition to any timeslot allocated where the spokesperson is speaking on their own behalf. The spokesperson may only speak once (ie: one time slot) on behalf of others regardless of the number of persons they are representing. The spokesperson will not be listed consecutively (where possible) when speaking on behalf of themselves and other person(s); and
- (3) where a member of the public has requested to be heard in relation to an item on the *agenda*, and he or she is not present at the time of calling his or her name to the microphone, and subsequently arrives in the gallery after his or her name has been called or once the debate on the item has commenced, the person previously called will not be afforded the opportunity to speak to the item.

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**69. Speaking to deferred items**

Where a member of the public has requested to be heard, and has spoken to the item prior to the consideration of the *Special Committee* or *Ordinary meeting*, and the *Special Committee* or *Ordinary meeting* has resolved to defer the matter for further consideration, the speaker will be afforded the opportunity to speak again when the item is relisted for consideration on the agenda.

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**70. Questions but no discussion permitted**

Following a speaker's presentation, members of the *Special Committee* or Councillors at an *Ordinary meeting* or members of *Council* staff at either meeting may only ask the speaker questions or seek clarification of issues raised by the speaker in his/her presentation which may assist in the deliberations prior to the elected body making a decision, but no discussion will be allowed.

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## 71. Individual presentation to Section 223 *Special Committee*

- (1) Where a request to be heard has been received in accordance with section 223 of the *Act*, the speaker must be afforded a reasonable opportunity to speak up to a maximum period of 15 minutes, with no further extension of time to be granted. Councillors may through the *Chair*, question or seek clarification of any submitter in relation to his or her submission.
- (2) Where a submitter has been heard in accordance with section 223 of the *Act* at a *Special Committee* established for that purpose, or where there are no submitters at a section 223 hearing, no further opportunity will be afforded to speak again on the subject matters when its considered at the *Ordinary meeting*.

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## 72. Relaxation of Requirement

Nothing in this Division prevents:

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

In which case any reference in clauses 64-69 (inclusive) and sub-clause (1) to a *Special Committee* will be read as a reference to *Council*.

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## DIVISION 11 - VOTING

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### 73. How Motion Determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion and then those opposed to the motion, and must then declare the result to the meeting.

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**74. Silence**

Voting must take place in silence.

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**75. Recount**

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

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**76. Casting Vote**

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

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

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**77. By Show Of Hands**

Voting on any matter is by show of hands.

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**78. Procedure For A Division**

- (1) Immediately after any question is put to a meeting and before the next item of business has commenced, a Councillor may call for a division.
- (2) When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- (3) When a division is called for, the *Chair* must:
  - (a) first ask each Councillor wishing to vote in the affirmative to raise a hand and, upon such request being made, each Councillor wishing to vote in the affirmative must raise 1 of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the affirmative; and
  - (b) then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise 1 of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any *authorised officer* must record, the names of those Councillors voting in the negative.

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## 79. No Discussion Once Declared

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

- (a) a Councillor requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the minutes or a register maintained for that purpose; or
- (b) foreshadowing a *notice of rescission* where a resolution has just been made, or a positive motion where a resolution has just been rescinded.

*For example, clause 79 would allow some discussion if, immediately after a resolution was made, a Councillor foreshadowed lodging a notice of rescission to rescind that resolution.*

*Equally, clause 79 would permit discussion about a matter which would otherwise be left in limbo because a notice of rescission had been successful. For instance, assume that Council resolved to refuse a planning permit application. Assume further that this resolution was rescinded.*

*Without a positive resolution – to the effect that a planning permit now be granted – the planning permit application will be left in limbo. Hence the reference, in clause 79(b), to discussion about a positive motion were a resolution has just been rescinded.*

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## DIVISION 12 – MINUTES

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### 80. Confirmation of Minutes

- (1) At every meeting of *Council* the minutes of the preceding meeting(s) must be dealt with as follows:
  - (a) a copy of the minutes must be delivered to each Councillor no later than 48 hours before the next meeting;
  - (b) if no Councillor indicates opposition, the minutes must be declared to be confirmed;
  - (c) if a Councillor indicates opposition to the minutes:
    - (i) he or she must specify the item(s) to which he or she objects;
    - (ii) the objected item(s) must be considered separately and in the order in which they appear in the minutes;
    - (iii) the Councillor objecting must move accordingly without speaking to the motion;
    - (iv) the motion must be seconded;
    - (v) the *Chair* must ask;
    - (vi) "Is the motion opposed?"

- (vii) if no Councillor indicates opposition, then the *Chair* must declare the motion carried without discussion and then ask the second of the questions described in clause 80(c)(xii);
- (viii) if a Councillor indicates opposition, then the *Chair* must call on the mover to address the meeting;
- (ix) after the mover has addressed the meeting, the seconder may address the meeting;
- (x) after the seconder has addressed the meeting (or after the mover has addressed the meeting if the seconder does not address the meeting), the *Chair* must invite debate by calling on any Councillor who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion;
- (xi) if, after the mover has addressed the meeting, the *Chair* invites debate and no Councillor speaks to the motion, the *Chair* must put the motion; and
- (xii) the *Chair* must, after all objections have been dealt with, ultimately ask:
  - "The question is that the minutes be confirmed" or
  - "The question is that the minutes, as amended, be confirmed",
  - and he or she must put the question to the vote accordingly;
- (d) a resolution of *Council* must confirm the minutes and the minutes must, if practicable, be signed by the *Chair* of the meeting at which they have been confirmed;
- (e) the minutes must be entered in the *minute book* and each item in the *minute book* must be entered consecutively;
- (f) unless otherwise resolved or required by law, minutes of a *Special Committee* requiring confirmation by *Council* must not be available to the public until confirmed by *Council*; and
- (g) the *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the meeting and to take the minutes of such meeting) must keep minutes of each *Council meeting*, and those minutes must record:
  - (i) the date, place, time and nature of the meeting;
  - (ii) the names of the Councillors present and the names of any Councillors who apologised in advance for their non-attendance;
  - (iii) the names of the members of Council staff present;
  - (iv) any disclosure of a conflict of interest made by a Councillor;

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

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

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## 81. No Debate on Confirmation Of Minutes

No discussion or debate on the confirmation of minutes is permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

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## 82. Deferral Of Confirmation Of Minutes

*Council* may defer the confirmation of minutes until later in the meeting or until the next meeting if considered appropriate.

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## 83. Recording Of Meetings

- (1) A person must not be record any *Council meeting* by electronic means, whether by use of a tape recorder, video camera, mobile phone, dictaphone or otherwise.

**Penalty:** 5 penalty units.

- (2) Nothing in sub-clause (1) applies to:
- (a) any member of Council staff operating any recording device for the purpose of preparing draft minutes of the meeting;
  - (b) any person who has been permitted to record a specific segment of a *Council meeting* as a result of a resolution made at a prior *Council meeting*; or
  - (c) any security camera installed in any place in which a *Council meeting* is held.

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## DIVISION 13 - BEHAVIOUR

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### 84. Display of placards and posters

- (1) A person must not display any placards or posters in the Council Chamber or in any building where a *Council meeting* or a *Special Committee* meeting is being or about to be held, other than outside the entrance to the building and even then only if it does not obstruct the entrance of the building.

**Penalty:** 5 penalty units.

- (2) A person must not:
- (a) display any offensive, indecent, insulting or objectionable item or words in the Council Chamber; or
  - (b) obstruct the entrance to the Council Chamber or a building where a *Council meeting* or a *Special Committee* meeting is being or about to be held.

**Penalty:** 5 penalty units.

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### 85. Public Addressing The Meeting

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

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**86. Chair May Remove**

The *Chair* may order and cause the removal of any person, including a Councillor who disrupts any meeting or fails to comply with a direction, or cause the removal of any object or material that is deemed by the *Chair* as being objectionable or disrespectful.

*It is intended that this power be exercisable by the Chair, without the need for any Council resolution under clause 86. The Chair may choose to order the removal of a person whose actions immediately threaten the stability of the meeting or wrongly threatens his or her authority in chairing the meeting.*

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**87. Suspensions**

*Council* may suspend from a portion of the meeting, or for the balance of the meeting, any Councillor whose actions have disrupted the business of *Council* at that meeting, and have impeded its orderly conduct.

*Unlike clause 85, this power of suspension resides in Council. The Chair may, for whatever reason, decline to order the removal of a person whose actions have been disruptive. Council itself can resolve to suspend the person and, in so doing, determine whether the suspension is to continue for the balance of the meeting or some lesser period.*

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**88. Offences**

(1) It is an offence for:

- (a) a person to use the *common seal* or any device resembling the *common seal* without the authority of *Council*;

**Penalty: 10** penalty units

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

**Penalty: 5** penalty units

- (c) a Councillor to not withdraw an expression considered by the *Chair* to be offensive or disorderly, and apologise when called on twice by the *Chair* to do so;

**Penalty: 2** penalty units

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

**Penalty: 2 penalty units**

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

**Penalty: 2 penalty units**

- (f) a Councillor to refuse to leave the Chamber on suspension.

**Penalty: 2 penalty units**

*The penalty units set out in this sub-clause and elsewhere (eg clause 81(1)) represent the maximum amount, which a Court can order a person to pay. Even then, it requires a prosecution to be brought against the person in the Magistrates' Court. An alternative to prosecution is the infringement notice procedure outlined in sub-clause (2).*

- (2) An *authorised officer* may, as an alternative to prosecution, issue an infringement notice in accordance with the *Infringements Act 2006* and associated regulations requirements to any person who has committed an offence against this Local Law.
- (3) The fixed penalty in respect of an on the spot infringement is the amount set out in Schedule 1.
- (4) Any infringement notice to issued to a person under this Local Law may be served on or given to the person by:
- (a) delivering the notice to the person;
- (b) leaving the notice at his or her usual or last known place of residence or business with a person apparently over the age of 16 years and apparently residing or employed at that place; or
- (c) sending the document by post addressed to the person at his or her last known place of residence or business.
- (5) The relevant *authorised officer* may withdraw the infringement notice within 28 days after its date by sending a notice to the person on whom the infringement notice was served.
- (6) If the person pays the penalty before the infringement notice is withdrawn, the person is entitled to a refund of the penalty.
- (7) If the person pays the penalty within the time specified in the notice or, if the relevant *authorised officer* allows, before a summons is served on the person in respect of the infringement, the following provisions apply:
- (a) further proceedings for an offence are not to be taken against the person; and
- (b) there is to be no conviction recorded against the person for the infringement.
- (8) A penalty paid under this clause must be applied as if the person who paid it was convicted of the infringement in a Magistrates' Court on the information of a person authorised by *Council* to bring proceedings on its behalf.

- (9) If a person served with an infringement notice has not paid the penalty within the time specified in the notice or any extension of that time or if an infringement notice is not withdrawn proceedings may still be taken or continued to prosecute the alleged.
- (10) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- (11) A person issued with an infringement notice is entitled to disregard the infringement notice and defend any prosecution in court.

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**89. Chair may adjourn disorderly meeting**

If the *Chair* is of the opinion that disorder at the Council table or in the gallery makes it desirable to adjourn the meeting, he or she may adjourn the meeting to a later time on the same day or to some later day as he or she thinks proper. In that event, the provisions of clause 23(1) and 23(2) apply.

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**90. Removal from Chamber**

The *Chair*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer or authorised officer* or a member of the Victoria Police to remove from the Chamber any person who acts in breach of this Local Law and whom the *Chair* has ordered to be removed from the gallery under clause 86 of this Local Law or whom *Council* has suspended under clause 87 of this Local Law.

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## **DIVISION 14 – ADDITIONAL DUTIES OF CHAIR**

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**91. The *Chair's* Duties And Discretions**

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

- (a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of *Council* staff, or member of the community;
- (b) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (c) must ensure silence is preserved in the public galley during any meeting;
- (d) must call to order any member of the public who approaches the Council or Committee table during the meeting, unless invited by the *Chair* to do so; and
- (e) must call to order any person who is disruptive or unruly during any meeting.

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## DIVISION 15 – SUSPENSION OF STANDING ORDERS

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### 92. Suspension of Standing Orders

- (1) To expedite the business of a meeting, *Council* may suspend standing orders.

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

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

- (2) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of *Council*. An appropriate motion would be:
- "That standing order be suspended to enable discussion on....."
- (3) No motion can be accepted by the *Chair* or lawfully be dealt with during any suspension of standing orders.
- (4) Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary. An appropriate motion would be:
- "That standing orders be resumed."

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## DIVISION 16 – MISCELLANEOUS

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### 93. Procedure not provided in Local Law

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

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### 94. Policies and Guidelines

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

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## DIVISION 17 - SPECIAL AND ADVISORY COMMITTEES

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### 95. Application to *Special Committees* Generally

- (1) If *Council* establishes a *Special Committee* composed solely of Councillors, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Special Committee*.

- (2) For the purposes of clause 94(1), a reference in Division 1-16 of this Local Law to:
- (a) a *Ordinary meeting* of Council is to be read as a reference to a meeting of the *Special Committee*;
  - (b) a Councillor is to be read as a reference to a member of the *Special Committee*; and
  - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Special Committee*.
- 

**96. Application to *Special Committees* Specifically**

Notwithstanding clause 94, if *Council* establishes a *Special Committee* composed solely of Councillors:

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

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

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**97. Application to *Advisory Committees* Generally**

- (1) If *Council* establishes an *Advisory Committee*, all of the provisions of Divisions 1-16 of this Local Law apply to meetings of the *Advisory Committee*.
  - (2) For the purposes of clause 96(1) a reference in Division 1-16 of this Local Law to:
    - (a) a *Council meeting* is to be read as a reference to a meeting of the *Advisory Committee*;
    - (b) a Councillor is to be read as a reference to a member of the *Advisory Committee*; and
    - (c) the *Mayor* is to be read as a reference to the *Chair* of the *Advisory Committee*.
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**98. Application to *Advisory Committees* Specifically**

Notwithstanding clause 96, if *Council* establishes an *Advisory Committee*:

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

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

**99. Adoption of Recommendation**

1. If a recommendation of a *Special Committee* is adopted by *Council*, what has been recommended becomes a resolution of *Council*.
2. Minutes of *Advisory Committees* will be presented to Council for adoption. Recommendations or decisions contained in such minutes will not become resolutions of Council unless the matter is the subject of a separate resolution of Council.

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## Schedule 1

### Meeting Procedure Local Law No. # Penalties Fixed for On the Spot Infringements

Local Law Provision	Offence	Penalty Units
83(1)	Recording meeting without prior approval	5
84(1)	Displaying placard or poster within Council Chamber or building	5
84(2)	Displaying objects or words or obstructing entrance to Council Chamber or building	5
88(1)(a)	Using the Common Seal or replica without authority	10
88(1)(b)	Fraudulently signing a petition or joint letter	5
88(1)(c), 88(1)(d), 88(1)(e) and 88(1)(f)	Call to Order – Failing to comply with a direction of the Chair	2

Resolution for the making of this Local Law was agreed to by the Council on the 24<sup>th</sup> Day of November 2009.

**The Common Seal of BAYSIDE CITY COUNCIL** was affixed this

.....day of .....2009 in the presence of:

..... Mayor/Councillor

..... Councillor

..... Chief Executive Officer

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette date the 1 October 2009 and 3 December 2009 respectively.

Public Notices of the proposal to make and confirmation of this Local Law were inserted in the Age Newspaper on 29 September 2009, and 3 December 2009.

A copy of this Local Law was sent to the Minister for Local Government on 4<sup>th</sup> Day of December, 2009.