



**PROCEDURAL MATTERS LOCAL LAW  
(NO. 1 OF 2018)**

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# PROCEDURAL MATTERS LOCAL LAW (NO. 1 OF 2018)

## PART 1 - PRELIMINARY

### Title

1. This is Local Law No. 1 of 2018 and is known as the "Procedural Matters Local Law".

### Objectives

2. This Local Law is made for the purposes of:
  - (a) regulating:
    - (i) providing the use and keeping of the Common Seal;
    - (ii) proceedings at Meetings of the Council and Special Committees;
    - (iii) proceedings for the election of the Mayor and Chairpersons;
  - (b) for the administration of the Council's powers and functions; and
  - (c) generally maintaining the peace, order and good government of the Municipal District.

### Authorising Provision

3. This Local Law is made under sections 5(3), 91(1) and 111(1) of the Act.

### Commencement

4. This Local Law commences on the day on which the Council completes the procedure set out in section 119(3) of the Act for giving notice of the making of this Local Law by a notice in the Victoria Government Gazette and a public notice.

### Revocation of Earlier Local Law

5. On the commencement of this Local Law, the Council's Procedural Matters Local Law No.1 of 2012 is revoked.

### Cessation of Local Law

6. Unless this Local Law is earlier revoked, it will cease to operate ten years after the day on which it is made.

### Application

7. This Local Law applies throughout the whole of the Municipal District.

### Definitions

8. In this Local Law -
  - (a) "**Act**" means the *Local Government Act 1989*;

- (b) "**Advisory Committee**" means a committee established by the Council which is not a Special Committee;
- (c) "**Advisory Committee Meeting**" means a meeting of an Advisory Committee;
- (d) "**Agenda**" means a document in the form of a notice which specifies the date, time and place of a Meeting and the business to be transacted at the Meeting and includes any accompanying papers;
- (e) "**Assembly of Councillors**" has the meaning ascribed to it by the Act;
- (f) "**Authorised Officer**" means a person appointed by the Council under section 224 of the Act;
- (g) "**Chairperson**" means the person who chairs a Meeting;
- (h) "**Code of Conduct**" means the Code of Conduct approved by the Council under section 76C of the Act;
- (i) "**Common Seal**" means the Common Seal of the Council;
- (j) "**Council**" means the Whittlesea City Council;
- (k) "**Council Meeting**" means any Ordinary Meeting or Special Meeting of the Council;
- (l) "**Delegate**" means:
  - (i) any member of the Council's staff to whom a delegation has been made under section 98 of the Act; or
  - (ii) a Special Committee to which a delegation has been made under section 86 of the Act;
- (m) "**In writing**" includes communications sent electronically;
- (n) "**Joint Letter**" means correspondence in writing or in such other format as the Chief Executive Officer may determine acceptable from time to time, addressed to the Council and signed by not less than three persons, personally or by a representative authorised by each person for the purpose, setting forth a matter on which a remedy or relief is sought;
- (o) "**Mayor**" means the Mayor of the Council;
- (p) "**Meeting**" includes an Ordinary Meeting, a Special Meeting and a Special Committee Meeting but does not include an Assembly of Councillors;
- (q) "**Member**" means a Councillor or a person appointed to a Special Committee who, apart from circumstances in which the conflict of interest provisions of the Act apply, is entitled to vote on matters which are dealt with at the Meeting;
- (r) "**Minutes**" means the record of the proceedings of a Meeting;
- (s) "**Municipal District**" means the municipal district of the Council;

- (t) "**Notice of Motion**" means a notice setting out the content of a motion which a Member proposes to move at a Meeting;
- (u) "**Offence**" means an act contrary to, or in default of, this Local Law;
- (v) "**Officer**" means a person employed on the Council's staff;
- (w) "**Online Petition**" means a petition which is signed online through a form on a website or a similar process;
- (x) "**Ordinary Meeting**" means a Meeting of the Council at which general business may be transacted;
- (y) "**Penalty Unit**" means a penalty unit as defined by the *Monetary Units Act 2004*;
- (z) "**Person**" includes a Member or Officer;
- (aa) "**Petition**" means a statement in writing or in such other format as the Chief Executive Officer may determine acceptable from time to time, addressed to the Council and signed by not less three persons, personally or by a representative authorised by each person for the purpose, setting forth a matter on which a remedy or relief is sought but excludes an Online Petition.
- (bb) "**Procedural Motion**" means a motion as set out in Schedule 2;
- (cc) "**Sent electronically**" in respect of communication to and from Members means transmitted by electronic means to or from the relevant Member portal or other electronic mail address of the Member;
- (dd) "**Special Committee**" means a committee established by the Council under section 86 of the Act;
- (ee) "**Special Committee Meeting**" means a Meeting of a Special Committee;
- (ff) "**Special Meeting**" means a special meeting of the Council convened in accordance with the Act;
- (gg) "**Urgent Business**" means a matter that relates to or arises out of a matter which has arisen since distribution of the Agenda and cannot safely or conveniently be deferred until the next Ordinary Meeting; and
- (hh) "**Visitor**" means any person other than a Member or an Officer who is invited to be present at and addresses a meeting.

## **PART 2 - COUNCIL COMMON SEAL**

### **Form of Common Seal**

9. The Common Seal must be in a form specified by Council resolution but must include the words "Whittlesea City Council".

### **Common Seal Security**

10. The Chief Executive Officer must ensure that the Common Seal is kept at the Council's offices in a secure way.

### **Use of the Common Seal**

11. The Common Seal must only be used:
  - (a) by resolution of the Council;
  - (b) by an Officer to whom power to use the Common Seal has been delegated;  
or
  - (c) in accordance with clause 15.

### **Unauthorised use of the Common Seal**

12. Unless in accordance with clause 11, a person must not use or affix to a document, the Common Seal or any device resembling the Common Seal.

Penalty: 20 Penalty Units

### **Signature to Accompany the Common Seal**

13. If for the purpose of giving legal force and effect to any document, the Common Seal is used with the authority of any Delegate, the document to which it is affixed must be signed by the Delegate in the form contained in Schedule 1.
14. If for the purpose of giving legal force and effect to any document, the Common Seal is used with the authority of the Council, the document to which it is affixed must be signed by one Councillor and the Chief Executive Officer in the form contained in Schedule 2.
15. If for a purpose other than of giving legal force or effect to a document, the Common Seal is used with the authority of a Councillor and the Chief Executive Officer (to whom power to seal any such document on behalf of the Council for such a purpose is hereby given), the document to which it is affixed must be witnessed by a Councillor and the Chief Executive Officer.

## PART 3 - MEETING PROCEDURES

### Code of Conduct

16. A Councillor must comply with the Code of Conduct during the course of any Meeting.

### Date, Time and Place of Council Meetings

17. The date, time and place of Council Meetings are to be determined by resolution of the Council (\*).

*\* Note - Council gives notice of ordinary and special Council meetings by publishing a notice on Council's website and in the Whittlesea Leader newspaper. A public notice listing all Council meeting dates for the year is published at the start of the year and a notice is placed in Council's weekly column in the Whittlesea Leader before each meeting. Notice is also provided at the Council libraries and on the notice board at the front entrance to the Council Offices.*

18. The Council may by resolution alter the date, time and place of any Council Meeting that has been fixed and must provide reasonable notice to the public.
19. Subject to clause 20, a Council Meeting must not proceed beyond 10:30pm on any given day.
20. The Council may, by resolution, extend the duration of a Council Meeting beyond 10:30pm, but only for intervals of not more than 30 minutes at a time.

### Notice of Council Meetings

21. A copy of the Agenda for any Meeting must be given to all Members not less than 48 hours before the commencement of the Meeting.
22. A copy of the Agenda is duly given if, not less than 48 hours before the commencement of the Meeting, it is:
  - (a) handed to the Member;
  - (b) delivered to the Member's postal or residential address; or
  - (c) sent electronically to the Member.
23. The obligations in clause 22 must be complied with:
  - (a) in the case of a Council Meeting, by the Chief Executive Officer or his or her Delegate; and
  - (b) in the case of a Special Committee Meeting, by the Chief Executive Officer or his or her Delegate.
24. Notice of the date, time and place of all Council Meetings will be published in accordance with the Act.



## **Adjournment of Meetings**

25. If a quorum (\*)
- (a) cannot be formed within 30 minutes after the time fixed in the Agenda for the commencement of a Meeting, or
  - (b) cannot be maintained due to the absence of Members,  
  
then the majority of Members present or, if there are not any Members present, the Chief Executive Officer or, in the absence of the Chief Executive Officer, any other Officer present at the Meeting, may adjourn the Meeting to:
  - (c) another time (having regard to the requirements of clause 19); or
  - (d) another date within seven days from the date of adjournment.

*\* Note - In accordance with Section 91(3A) of the Local Government Act 1989, a quorum at a meeting of the Council or a special committee must be at least a majority of the members of the Council or special committee.*

26. Where a quorum cannot be maintained as a result of a declaration of a conflict of interest by a majority of Members at a Meeting the Mayor, Chairperson, Chief Executive Officer or, in their absence, an Officer, may adjourn consideration of that item for a length of time sufficient to enable dispensation to be obtained from the Minister administering the Act pursuant to section 80(2) of the Act.
27. Where the Chairperson is of the opinion that disorder in the Council Chamber or in the public gallery makes it desirable to adjourn a Meeting, the Chairperson may adjourn the Meeting in the same manner as prescribed in clause 25 (except that a reference to "Chief Executive Officer" shall be construed as a reference to the "Chairperson").
28. Where a Meeting is adjourned, the Chief Executive Officer or his or her Delegate, having regard to the circumstances of the adjournment must make all reasonable efforts to give all Members of the Council or Special Committee, as appropriate, and the public (where required by the Act) notification in a form which, in the discretion of the Chief Executive Officer, is appropriate advising of the adjourned time or adjourned date and time.

## **Agenda and Minutes**

29. Subject to clauses 30 and 34, the Chief Executive Officer must determine the form of Minutes and Agenda for Meetings.
30. The Minutes must record:
- (a) in the case of a Special Committee Meeting, the name of the relevant committee;
  - (b) the date, time and place of the Meeting, the time it commenced and any times at which it was adjourned and resumed;
  - (c) the names of the Members present and a record of their attendance relative to items considered during the entire Meeting;
  - (d) the names of Officers present and their titles;

- (e) details of any action taken by any Member in compliance with the conflict of interest provisions of the Act;
- (f) formal reports by Members who report as delegates or by Officers;
- (g) the names of Members who move and second any motion or amendment;
- (h) the text of any motion or amendment which is proposed, whether or not it is seconded;
- (i) whether or not a motion or an amendment which has been proposed and seconded is carried or lost;
- (j) a reference to any formal submission made verbally by a Visitor pursuant to a statutory right;
- (k) details of any deputations made to the Council;
- (l) details of failure to achieve a quorum, and a time and reason for any adjournment;
- (m) details of questions from Members to Officers during hearing of 'Questions to Officers';
- (n) details of questions from the public to Members during hearing of "Questions to Councillors"; and
- (o) any other matter, including Chief Executive Officer Notes, which the Chief Executive Officer thinks should be recorded to clarify the intention of the Meeting or assist in the reading of the Minutes.

### **Conduct of Business**

- 31. Only the business contained in the Agenda for an Ordinary Meeting or Special Committee Meeting may be dealt with unless the Meeting resolves to deal with Urgent Business.
- 32. After the Agenda is published the Chief Executive Officer may, with the agreement of the Chairperson, withdraw a matter listed on the Agenda.
- 33. If a matter listed on the Agenda is withdrawn in accordance with clause 32, the Chief Executive Officer must:
  - (a) tell Councillors of its withdrawal and the reasons for it by notice sent electronically as soon as practicable after withdrawal; and
  - (b) provide an explanation for its withdrawal to the Meeting which the matter was listed.

### **Business of Meetings**

- 34. The business of:
  - (a) an Ordinary Meeting may include:
    - (i) confirmation of previous Minutes;
    - (ii) attendance and apologies;

- (iii) where applicable, declarations of conflict of interest;
  - (iv) presentation of general reports, including, where applicable, reports of a confidential nature where the Meeting is closed to the public under section 89(2) of the Act;
  - (v) consideration of Petitions and Joint Letters, including those submitted without notice by Councillors;
  - (vi) Notices of Motion;
  - (vii) reports from Councillors appointed by the Council to other bodies;
  - (viii) public question time;
  - (ix) questions from Members to Officers;
  - (x) questions from the public to Members;
  - (xi) Urgent Business; and
  - (xii) any other matter that the Council by resolution, or the Chief Executive Officer in his or her discretion, determines.
- (b) a Special Committee Meeting must include:
- (i) confirmation of previous Minutes;
  - (ii) attendance and apologies;
  - (iii) where applicable, declarations of conflict of interest;
  - (iv) presentation of general reports, including those of a confidential nature where the Meeting is closed to the public under section 89(2) of the Act; and
  - (v) Urgent Business dealt with under clause 31.

35. The Chief Executive Officer may determine the order in which the business of a Meeting is to be listed in the Agenda.

### **Form of Motions and Amendments**

36. A motion or an amendment which is proposed by a Member at a Meeting must:

- (a) be expressed clearly and unambiguously;
- (b) not be defamatory or objectionable in nature; and
- (c) be relevant to an item on the Agenda, unless it is resolved to be Urgent Business.

37. A motion or amendment:

- (a) which differs in wording from a recommendation or Notice of Motion which is on the Agenda must be read aloud by the proposer; and

- (b) may be written out by the proposer and given to the Chairperson and, on the request of a Member, must be written out by the Chief Executive Officer or his or her Delegate and made available to Members.

A copy of the motion or amendment may be given to all Members present or otherwise displayed so that Members can read it before any further debate takes place or the vote on it is taken.

- 38. The Chairperson may reject a motion or amendment which does not conform to the requirements of clauses 36 or 37.

### **Procedures for Moving Motions and Amendments**

- 39. The procedure upon any motion or amendment is as follows:

- (a) the mover must state the motion;
- (b) the Chairperson must call for a seconder, unless the motion is a call to enforce a point of order;
- (c) if there is no seconder, the motion lapses;
- (d) if there is a seconder, the Chairperson must ask whether the motion is opposed;
- (e) if no Member indicates opposition to a motion or amendment which has been seconded, the Chairperson must ask the mover to speak to their motion and after they have spoken put the motion or amendment to the vote without debate;
- (f) if any Member indicates opposition to a motion or amendment which has been seconded:
  - (i) the Chairperson must call for any questions regarding the matter to be asked through the Chairperson to the Chief Executive Officer;
  - (ii) any questions received from Members will be referred by the Mayor to the Chief Executive Officer;
  - (iii) the Chief Executive Officer will respond to any referred questions or determine which member of staff should respond; and
  - (iv) the Chairperson must then ask the mover to speak to the motion;
- (g) after the mover has spoken to the motion, the seconder may speak to the motion;
- (h) after the seconder has spoken to the motion or, if after the mover has addressed the Meeting, the seconder does not speak to the motion, after the mover has spoken to the motion, the Chairperson must call upon any Member who wishes to speak for or against the motion;
- (i) any Member, except the mover or the seconder of the original motion may move or second an amendment;
- (j) in regard to a motion a Member may speak once except that where there has been a speaker in opposition the mover of the motion has a right of reply prior to the motion being put to a vote;

- (k) in regard to an amendment a Member may speak once on the amendment and the mover of the amendment does not have a right of reply prior to the amendment being put to a vote;
- (l) a Member may be permitted by the Chairperson to speak more than once to explain that the Member has been misrepresented or misunderstood;
- (m) before any motion or amendment is put to the vote, it may be withdrawn by the mover, unless any Member objects to the withdrawal. If any Member objects to the withdrawal of the motion or amendment, it may not be withdrawn;
- (n) amendments must be dealt with one at a time; and
- (o) any subsequent amendment must not be dealt with until the preceding amendment is resolved.

### **Confirmation of Minutes**

40. The Minutes of a Meeting must be confirmed in the following manner:
- (a) the Chief Executive Officer must give a copy of the Minutes of the Meeting to all Members not less than 48 hours before the commencement of the Meeting at which the Minutes are to be confirmed;
  - (b) a copy of the Minutes is duly given if it is:
    - (i) handed to the Member;
    - (ii) delivered to the Member's postal or residential address; or
    - (iii) sent electronically to the Member;
  - (c) the Chairperson must not allow any discussion on the Minutes, except concerning their accuracy;
  - (d) if a Member does not consider that the Minutes are accurate, the Member must specify the particular item in the Minutes and, after asking any questions to clarify the matter, must move a motion to rectify any errors or inaccuracy in the Minutes; and
  - (e) where such a motion is moved it must be dealt with in accordance with clauses 36 and 37.

### **Public Question Time**

41. A member of the public may submit a question or questions to the Council at an Ordinary Meeting in accordance with policy and procedures adopted from time to time by the Council.
42. The Public Question Time Policy in place at the time of adoption of the Local Law is set out in Schedule 3.

## Petitions and Correspondence

43. All written and electronic correspondence, including a Petition or Joint Letter, which is addressed to a Member personally and which requires a decision of, or a direction from, the Council must be referred to the Chief Executive Officer.
44. The Chief Executive Officer must determine whether any Petition or Joint Letter or correspondence addressed to a Member personally needs to be included on the Agenda.
45. The Chief Executive Officer may reject and decline to include on the Agenda any Petition or Joint Letter on the grounds that it:
  - (a) repeats a question which has been asked and answered in the preceding three months;
  - (b) is defamatory or malicious;
  - (c) raises an issue of a confidential nature;
  - (d) is asked to embarrass a Councillor or Officer; or
  - (e) involves the unauthorised disclosure of personal information.
- 45A When the Chief Executive Officer rejects or decides not to include a Petition or Joint Letter under the provision of clause 45, they must within 2 business days advise the person submitting the Petition or Joint Letter of that decision and the grounds and provide a recommended alternative wording and/or format that would be acceptable.
46. The Chairperson must allow a Member submitting a Petition and Joint Letter without notice to read the contents of the Petition and to inform the Meeting of the number of signatories to the Petition.
47. A Member should not present and the Chairperson may disallow any Petition and Joint Petition on the grounds that it:
  - (a) repeats a question which has been asked and answered in the preceding three months;
  - (b) is defamatory or malicious;
  - (c) raises an issue of a confidential nature;
  - (d) is asked to embarrass a Councillor or Officer; or
  - (e) involves the unauthorised disclosure of personal information.
48. A motion to deal with a Petition or Joint Letter submitted without notice by a Member to a Meeting, apart from a motion receiving a Petition and directing it to the Chief Executive Officer for attention, must not be further considered unless resolved to be an item of Urgent Business.
49. Where a Petition or Joint Letter submitted without notice relates to an item of business already on the Agenda for the Meeting, the Petition or Joint Letter is to be referred to that item and considered by the Meeting as part of its deliberation on that matter.

50. Any Petition or Joint Letter received by any Member or Officer must be submitted to the relevant Meeting for consideration.

### **Listing of Notices of Motion on an Agenda**

51. A Member may submit to the Chief Executive Officer a Notice of Motion in writing for consideration at a Meeting.
- (a) Subject to clause 51(c), a Notice of Motion, which is received in writing by the Chief Executive Officer prior to 12 noon on a day that is not less than fourteen days prior to the date of the Meeting for which it is intended, must be included on the Agenda for that Meeting unless the Notice of Motion specifies a different Meeting date.
  - (b) If a Notice of Motion is received after the time specified in (a) above, it must, unless it is withdrawn in writing by the Member, be included in the Agenda for the next available Meeting of the same type.
  - (c) The Chief Executive Officer must reject a Notice of Motion which does not conform to the requirements of clauses 36(a) and 36(b) or 37.
  - (d) If the Chief Executive Officer rejects a motion under clause 51(c), he or she must:
    - (i) notify the Councillor who lodged the Notice of Motion of the rejection and reasons for it; and
    - (ii) give the Councillor who lodged the Notice of Motion a reasonable opportunity to amend it, where it is practicable to do so, so that it conforms to the requirements of clauses 36 or 37.
  - (e) Having regard to the requirements of clause 21, a Notice of Motion may only be withdrawn if:
    - (i) notice of the withdrawal is received in writing prior to the publication of the Agenda for which the Notice of Motion was intended to be included; or
    - (ii) a motion put to the Meeting, and Council resolves, to withdraw the Notice of Motion.
  - (f) The Chief Executive Officer must arrange for every Notice of Motion received to be endorsed with the date and time of its receipt and for it to be kept or entered, in the order received, in a register.
52. The Chief Executive Officer may include on the Agenda for a Meeting any comments which provide information about the issues dealt with in a Notice of Motion.
53. Where a Member who has given a Notice of Motion is present at the Meeting, the Member must move the motion contained in the Notice of Motion.
54. Where a Member who has given a Notice of Motion is not present at the Meeting at the time the matter is due to be dealt with, any other Member may move the motion contained in the Notice of Motion.

## **Reports of Mayor and Representatives – Ordinary Meetings**

55. At an Ordinary Meeting, the Mayor and any Councillor who is a delegate or representative of the Council on another body may report to the Ordinary Meeting about an issue which is important to the Council, despite the report not being on the Agenda.
56. A copy of any such report may be submitted to the Chairperson before the close of the Ordinary Meeting and included in the Minutes.
57. The Chairperson must only accept a motion to receive the report and must not accept any other motion arising from the report, unless the motion is resolved to be Urgent Business.
58. The presentation of a report by a Councillor under clause 55 must not exceed five minutes, unless the Chairperson allows an extension of time.

## **Points of Order**

59. A point of order is a question raised in a Meeting by a Member as to whether the procedures set out under this Local Law have been, or are being, breached.
60. A Member may take a point of order at any time during the course of a Meeting by stating briefly the subject of the point of order.
61. A Member calling the attention of the Chairperson to a point of order is not regarded as speaking to a motion or an amendment.
62. Where a point of order is taken, any Member speaking at the time must stop until the Chairperson rules upon the point of order.
63. The Chairperson may adjourn the Meeting to consider a point of order, but must rule upon it as soon as possible and before the Meeting continues with ordinary business.
64. When ruling upon a point of order, the Chairperson must state the basis of and give reasons for the ruling.

## **Ruling of the Chairperson**

65. Subject to clause 66, the ruling of the Chairperson on any procedural matter arising during a Meeting is final and binding.

## **Dissent from Chairperson's Ruling**

66. A Member may move a motion to the effect that the Meeting dissent from the Chairperson's ruling.
67. A motion of dissent in the Chairperson's ruling shall, if seconded, be given priority.
68. When a motion of dissent is moved and seconded, the following process must be followed:
  - (a) the Chairperson must leave the Chair and a temporary Chairperson must take his or her place;



- (b) the temporary Chairperson must invite the mover of the motion of dissent to outline the reasons for his or her dissent and the Chairperson must reply;
- (c) the matter is then decided by a vote on the following question:  
‘That the Chairperson’s ruling be upheld’;
- (d) following a decision on the motion of dissent, the Chairperson will resume the Chair for the remainder of the Meeting;
- (e) if the motion under clause (c) is:
  - (i) lost, the Chairperson must reverse or vary (as the case may be) his or her previous ruling and proceed; or
  - (ii) carried, the Meeting will proceed; and
- (f) the defeat of the Chairperson's ruling is in no way a motion of censure or no-confidence in the Chairperson, and should not be so regarded by the Meeting.

### **Voting**

69. Voting shall be conducted in accordance with the Act.

70. Voting shall be by a show of hands unless otherwise permitted under the Act.

### **Use of the casting vote**

71. The Chairperson must exercise a casting vote if there is an equality of votes, except in the circumstances set out in the Act.<sup>1</sup>

### **Recording Opposition to Vote**

72. At any Meeting a Member may ask that the Member's name be recorded in the Minutes as having voted in the negative immediately after the Chairperson has put any motion or amendment to the vote and has announced the result of that vote.

### **Division**

73. The calling of a division sets aside the result of the voting announced by the Chairperson and voting by division determines whether the motion or amendment is carried or lost.

### **When a Division is permitted**

74. Immediately after a motion (except for a Procedural Motion) or amendment has been put to a Meeting but before the next item of business is commenced, a Member may call for a division.

### **Procedure for a Division**

75. Where a division is called for, the Chairperson must:

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<sup>1</sup> Section 90(2) of the Act sets out when the matter is to be determined by lot.

- (a) first ask each Member wishing to vote in the affirmative to raise a hand and, upon such request being made, each Member so wishing must show a hand and the Chairperson must then state the names of those Members so voting;
  - (b) next ask each Member wishing to vote in the negative to raise a hand and, upon such request being made, each Member so wishing must show a hand and the Chairperson must then state the names of those Members so voting; and
  - (c) then record the names of Members voting in the affirmative and in the negative and abstaining from voting in the Minutes of the Meeting.
76. The Chairperson must announce to the Meeting the result of the voting immediately after the division has been taken.

### **Procedural Motions**

77. Unless otherwise prescribed by this Local Law, Procedural Motions may be moved at any time and must be dealt with in accordance with Schedule 4 to this Local Law.

### **Foreshadowed Motions**

78. At any time during a debate a Member may foreshadow a motion so as to inform the Meeting 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.
79. A foreshadowed motion may be prefaced with a statement that, in the event of a particular motion being resolved in a certain way, the Member intends to move an alternative or additional motion.
80. A motion foreshadowed has no procedural standing and is merely a means to assist in the flow of the Meeting.
81. The Chief Executive Officer is not required to record in the Minutes a foreshadowed motion, but may do so if he or she considers it appropriate.

### **Rescission of or Variation to Previous Resolution**

82. Unless a resolution has already been acted upon, a motion to rescind or vary a previous resolution may be made by:
- (a) Notice of Motion; or
  - (b) a recommendation in an Officer's report which is on the Agenda.
83. The Chief Executive Officer must not accept a Notice of Motion to rescind or vary a previous resolution unless the Notice of Motion is received in writing before 12 noon on the third working day following the Meeting at which that previous resolution was made.
84. On receipt of a notice of motion to rescind or vary the previous resolution under Clause 82, above, the Chief Executive Officer will undertake the steps necessary to enable the Council to consider the proposed motion at a Special Meeting.
- 84A A Notice of Motion to rescind cannot be proposed as an item of Urgent Business.

85. A motion which, if passed, would have the effect of nullifying a previous resolution (without directly rescinding it) or would be in conflict with a previous resolution, must be treated in accordance with clauses 83 and 84.
86. A Member may withdraw a Notice of Motion to rescind or vary a resolution in accordance with clause 51(c).

### **Speaking Times**

87. Unless a motion for an extension of time has been carried, the speaking times during a Meeting must not exceed:
- (a) for the mover of a motion or an amendment - five minutes;
  - (b) for the mover of a motion exercising a right of reply - two minutes; and
  - (c) for any other Member on any other matter - three minutes.

### **Extension of Speaking Time**

88. An extension of speaking time may be granted by resolution of the Council but only one extension for each speaker is permitted.
89. Any extension of speaking time must not exceed two minutes.
90. A motion for an extension must not be accepted by the Chairperson if another speaker has commenced speaking.

### **Manner of Address**

91. In addressing a Meeting, a person must:
- (a) do so through the Chairperson;
  - (b) refer to the Chairperson as Mayor, Mr Mayor, Madam Mayor, Chair, Mr Chairperson or Madam Chairperson, as appropriate;
  - (c) refer to another Member as Councillor [surname] or for Members who are not Councillors as Mr, Mrs, Ms or Miss [surname], as appropriate;
  - (d) refer to an Officer by that Officer's position with the Council; and
  - (e) refer to any other person in a courteous manner.

### **Additional Rules of Debate**

92. A Member must not make any defamatory, indecent, abusive, offensive, or disorderly statement or comment.
93. The Chairperson may require a Member to withdraw any such statement or comment and, if so required, a Member must immediately and unreservedly do so.
94. The Chairperson must decide the order in which Members may speak.
95. Where debate is adjourned by a resolution, the Member moving the adjournment has the right to speak first when the debate is resumed.

96. A Member must not be interrupted while speaking, except by the Chairperson or upon a point of order being taken.
97. The Chairperson may speak on any matter under discussion.
98. When exercising a right of reply, a Member must not introduce new or additional matters.
99. There should be no further discussion on a resolution after it has been dealt with.

### **Compliance with Meeting Procedures**

100. If during a Meeting the Chief Executive Officer or his or her delegate becomes aware of any non-compliance with the Meeting procedures contained in this Local Law or other applicable legislation, rule, custom or practice relating to Meeting procedures, the Chief Executive Officer or his or her Delegate must immediately inform the Chairperson about the requirements of this Local Law or other applicable legislation, rule, custom or practice relating to Meeting procedures.
101. The Chairperson must allow the Chief Executive Officer or his or her Delegate to advise the Meeting of any such breach or likely breach of this Local Law or other applicable legislation, rule, custom or practice, and the Meeting must take account of the advice given.

### **Behaviour at Meetings**

102. Silence must be observed by the gallery at all times during a Meeting.
103. If a Person is called to order by the Chairperson for any improper or disorderly conduct and does not comply with the direction, the Person may be ordered by the Chairperson to leave the Meeting.

### **Suspension of Standing Orders**

104. The Council or a Special Committee may by resolution suspend for all or part of a Meeting the provisions of Part 3 of this Local Law, except to the extent that such suspension would be inconsistent with the Act.
105. Despite clause 104, standing orders must not be suspended during the election of the Mayor, Deputy Mayor or Chairperson.

### **Offences**

106. It is an Offence:
  - (a) if a Person fails to withdraw a remark which is defamatory, indecent, abusive, offensive or disorderly in language, substance or nature and does not satisfactorily apologise where called upon by the Chairperson to do so at least twice;  
  
Penalty: 20 Penalty Units
  - (b) if a Person, who has been called to order for any improper or disorderly conduct fails to leave a Meeting when directed by the Chairperson to do so; and  
  
Penalty: 20 Penalty Units

- (c) if any Person fails to obey a direction of the Chairperson relating to the orderly conduct of a Meeting.

Penalty: 20 Penalty Units

- 107. The Chairperson has discretion to cause the removal of any Person who has committed an Offence under clause 106 or otherwise disrupts a Meeting or fails to comply with a direction of the Chairperson.
- 108. For the purposes of securing the proper removal of any Person under clause 107, the Chairperson may request any member of the Victoria Police or any Authorised Officer to remove such Person from the Meeting and the member of the Victoria Police or the Authorised Officer must remove such Person accordingly.

## **PART 4 - ELECTION OF THE MAYOR AND DEPUTY MAYOR**

### **Nominations**

109. Any Councillor is eligible for election or re-election to the office of Mayor or Deputy Mayor.

### **Agenda for Meeting to elect the Mayor**

110. The Agenda for the Meeting to elect the Mayor and Deputy Mayor may include:
- (a) the taking of the oath (\*) of office by each Councillor under the Act;
  - (b) the fixing of allowances for the Mayor and Councillors under the Act; and
  - (c) the appointment of Councillor representatives to various bodies.

\*Note – Section 102 of the *Evidence Act 1958* provides for the taking of an affirmation instead of an oath.

### **Temporary Chairperson**

111. The Chief Executive Officer will be the temporary Chairperson of the Meeting at which the election of the Mayor and Deputy Mayor is to be conducted but will have no voting rights.

### **Procedure for election of Mayor and Deputy Mayor**

112. The Chief Executive Officer shall invite nominations for the office of Mayor and the following procedures shall apply to the conduct of the election:
- (a) any Councillor nominated may accept or refuse nomination;
  - (b) if only one nomination is received, the candidate nominated shall be declared elected Mayor;
  - (c) if there is more than one nomination, a vote must be taken to elect one of the candidates;
  - (d) in the event of a candidate receiving a majority of the votes, that candidate is declared to have been elected;
  - (e) in the event that no candidate receives a majority of the votes, the candidate with the fewest number of votes shall be declared to be a defeated candidate. A further vote will then be taken for the remaining candidates;
  - (f) 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 candidates with the fewest number of votes a defeated candidate and voting for the remaining candidates must be repeated until one of the candidates receives a majority of the votes. That candidate must then be declared to have been duly elected;
  - (g) in the event that;

- (i) there are more than two candidates remaining and two, or more, of those candidates each have the fewest number of votes and an equal number of votes; or
- (ii) there are only two candidates remaining and each has an equal number of votes –

the candidate to be declared the defeated candidate shall be determined by lot.

113. If a lot is conducted, the Chief Executive Officer will have the conduct of the lot and the following provisions will apply:
- (a) each candidate will draw one lot;
  - (b) the order of drawing lots will be determined by the alphabetical order of the surnames of the Councillors who received an equal number of votes, except that, if two or more such Councillors' surnames are identical, the order will be determined by the alphabetical order of the Councillors' first names; and
  - (c) as many balls as there are Councillors who received an equal number of votes must be placed in a receptacle. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" shall be written on one of the balls, and the Councillor who draws the ball 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).
114. The procedure for the election of the Deputy Mayor will, as near as is practicable, follow the procedure for the election of Mayor, with any necessary modifications.

### **Chairperson**

115. After the elections of the Mayor and the Deputy Mayor are determined, the Mayor assumes the position of Chairperson.
116. The Mayor must chair all Council Meetings at which he or she is present.
117. Where the Mayor is absent from all or part of a Council Meeting, the Deputy Mayor will chair the Council Meeting.
118. Where both the Mayor and the Deputy Mayor are absent from all or part of a Council Meeting, the Chief Executive Officer must invite nominations for a temporary Chairperson.
119. If there is more than one nomination for a temporary Chairperson under clause 118 the procedure for determining the temporary Chairperson will be in accordance with clauses 112 and 113.

**PART 5 - ADVISORY COMMITTEES AND SPECIAL COMMITTEES OF COUNCIL**

**Establishment of Committees**

- 120. The Council may establish Advisory Committees and Special Committees comprised of Councillors, Officers or other Persons, or any combination of them.
- 121. The terms of reference for, or the roles and responsibilities of, Advisory Committees and Special Committees which the Council establishes must be clearly defined by the Council.
- 122. Advisory Committees and Special Committees must only deal with matters which are within their respective terms of reference and roles and responsibilities.
- 123. Advisory Committees and Special Committees may meet at times and places which they each determine unless otherwise directed by the Council.
- 124. Advisory Committee Meetings are not open to the public unless the Council or the Advisory Committee otherwise determines.
- 125. An Advisory Committee may appoint a Chairperson in the event that the Council has not done so.
- 126. An Advisory Committee cannot be delegated any powers, duties or functions of the Council and must not purport to exercise or perform any power, duty or function of the Council.
- 127. The Council will specify the meeting procedures and associated procedures to be followed by an Advisory Committee.
- 128. This Local Law applies to Special Committee, with any necessary modifications, unless Council resolves otherwise.

THE COMMON SEAL of )  
WHITTLESEA CITY COUNCIL )  
is affixed in the presence of: )

..... Councillor

..... Chief Executive Officer



**Schedule 1 Signature to Accompany the Common Seal**

**Clause 13**

THE COMMON SEAL of )  
WHITTLESEA CITY COUNCIL )  
is affixed in the presence of: )

..... Delegate

**Schedule 2 Signature to Accompany the Common Seal**

**Clause 14**

THE COMMON SEAL of )  
WHITTLESEA CITY COUNCIL )  
is affixed in the presence of: )

..... Councillor

..... Chief Executive Officer

## Schedule 3 Public Question Time Policy

### Clause 41

<b>Category</b>	Councillors, members of Council staff, members of the public and any Person attending a Council Meeting
<b>Date of Adoption by Council</b>	3 July 2018
<b>Directorate Responsibility</b>	Partnerships and Engagement

### Policy

The purpose of this policy is to provide procedural guidelines in relation to the conduct of Public Question Time at Council meetings as provided in Procedural Matters Local Law No 1 of 2018.

### Objectives

The objective of this policy is to facilitate the asking and answering of questions by members of the public at ordinary meetings of Council in relation to a matter listed on a Council Notice Paper or a significant strategic or governance matter affecting the City.

### Context/Rationale

This policy on Public Question Time is incorporated by reference in the Whittlesea City Council's Procedural Matters Local Law No 1 of 2018.

### Key linkages

Key linkages to this Council Policy are:

- Council's *Procedural Matters Local Law No 1 of 2018* (clause 41);
- Council's Community Plan; and
- Council's *Disability Action Plan*
- *Local Government Act 1989* (Vic)
- *Victorian Equal Opportunity Act 2010* (Vic)
- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Victorian Disability Act 2006* (Vic)

## Procedural Guidelines

1. There are many ways that you can contact the Council to ask a question, receive a service or obtain information. You can contact us by telephone, by visiting the Council offices, sending a letter, a fax or an email or by speaking with one of our staff out in the community. Public Question Time at Council Meetings is but one method that residents and ratepayers have to formally contribute to public debate or seek to input to, and obtain feedback from, Council.
2. You are also welcome to contact the Mayor and Councillors directly. Councillors are elected to represent residents and ratepayers of the City of Whittlesea and to make decisions on your behalf at regular Council meetings.
3. The purpose of public question time is to facilitate the asking and answering of questions by members of the public at ordinary meetings of Council in relation to matters listed on the Notice Paper or a significant strategic or governance matter affecting the City.
4. The answer that we give you at the Council Meeting is an interim reply only and the Council's official response will be sent to you after the meeting.
5. Residents and ratepayers of the City of Whittlesea can ask questions at the formal Council meeting. Persons submitting questions must identify themselves when requested by the Chairperson to do so. If you are unable to attend the meeting for any reason, including because of an 'attribute' as defined in the *Equal Opportunity Act 2010* (eg a disability). you may nominate a representative to attend on your behalf.
6. Regardless of whether you or your representative are able to attend the Council meeting, we will read out your question and provide a response at the meeting and also record your question and the interim response in the minutes of the meeting subject to points 10, 11, 12 and 13 of these Guidelines.
7. The schedule of Council meeting dates and times is available on the City of Whittlesea website ([www.whittlesea.vic.gov.au](http://www.whittlesea.vic.gov.au)).
8. If you would like to ask a question at a Council meeting, your question should be in writing and in English unless this unreasonably prevents or hinders you from participating. If you are unable to provide your question in writing and/or in English and would like to make alternate arrangements, please contact the Council's Governance Team before the Council meeting to discuss the means by which you may submit your question to the Council meeting. If you do not speak English, we offer various language services to help you communicate with us including VITS and LanguageLinks. If you have a hearing or speech impairment you may use the National Relay Service.
9. We recommend that your question is submitted on the form available on our website as this gives you space to record your contact details as well as your question.
10. A question must be received by:
  - leaving it in the "Question Box" in the Council offices no later than 3pm on the day of the ordinary Council meeting; or
  - leaving it at the reception desk at the Council Offices no later than 3pm on the day of the ordinary Council meeting; or
  - sending it by e-mail ([info@whittlesea.vic.gov.au](mailto:info@whittlesea.vic.gov.au)) (Fax: 9409 9810) no later than 3pm on the day of the ordinary Council meeting; or
  - people with communication impairment may present their questions in their preferred formats. Prior notification of the particular format will facilitate acceptance and processing of the question.

11. A time is set aside for public questions during ordinary meetings of Council, in anticipation of you or your representative being present in person or by some other approved means. When we reach that time on the agenda, we will read your question and provide an interim reply. When we read your question, we must be sure that it complies with these guidelines. The Chairperson reserves the right to summarise or précis your question when reading it out at the meeting and recording the question in the minutes of the meeting.
12. The Chief Executive Officer must notify the Chairperson of any public questions received including any questions which are disallowed under point 13.
13. The Chairperson may disallow any question on the grounds that it:
  - is repetitive of a question already asked;
  - is defamatory or malicious;
  - does not relate to a matter on the Agenda for the meeting;
  - raises an issue of a confidential nature (see below); or
  - is asked to embarrass a Councillor or Council officer.

The Chairperson may provide reasons where a question is disallowed but is not obliged to do so where clarification is impracticable or may, in the opinion of the Chairperson, cause Council to directly or indirectly breach contractual undertakings or offend relevant laws, guidelines, policies and procedures. Statements and opinions are not permitted during question time and will not be read at the meeting.

14. Where a question:
  - (a) relates to a matter to be dealt with in the confidential section of the Agenda; or
  - (b) is of a nature that would ordinarily be dealt with in the confidential section of the Agenda,

the Chairperson may, without reading the question aloud, advise the person submitting the question that:

- (c) the question will not be dealt with during the meeting; and
  - (d) a written response will be provided as soon as is practicable.
15. The Chairperson will nominate the appropriate Councillor or Council officer to answer the question or elect to answer it himself/herself. The text of the question or a summary and the response will be recorded in the minutes of the Council meeting. No debate or discussion of the questions or answers is permitted.
16. Council's official response to questions submitted at a Council meeting will be finalised generally within 5 working days of the Council Meeting and provided in writing or any other reasonable form determined by Council. If a complete response cannot be provided, an interim response will be sent indicating when the full response will be provided.

**Schedule 4 Procedural Motions - Procedure and Effect**

<b>PROCEDURAL MOTION</b>	<b>FORM</b>	<b>WHO CAN MOVE OR SECOND</b>	<b>IS A SECONDER REQUIRED?</b>	<b>MATTER IN RESPECT OF WHICH MOTION MAY BE MOVED</b>	<b>WHEN MOTION PROHIBITED</b>	<b>EFFECT IF CARRIED</b>	<b>EFFECT IF LOST</b>
Adjournment of debate to later hour/date	That this matter be adjourned until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking	Motion and amendments postponed to the stated time/date	Debate continues unaffected
Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking  (c) When the matter is one in respect of which a call of Council has been made	Motion and amendments postponed but may be resumed:  (a) At the same Meeting upon resolution to resume  (b) At any later Meeting if on the Agenda	Debate continues unaffected
Adjournment of Meeting to later hour/date	That the Meeting be adjourned until .....	Any Councillor	Yes	Any Meeting	(a) During the election of the Chairperson  (b) When another Councillor is speaking	Meeting adjourns immediately until the stated time (or date)	Meeting continues unaffected

<b>PROCEDURAL MOTION</b>	<b>FORM</b>	<b>WHO CAN MOVE OR SECOND</b>	<b>IS A SECONDER REQUIRED?</b>	<b>MATTER IN RESPECT OF WHICH MOTION MAY BE MOVED</b>	<b>WHEN MOTION PROHIBITED</b>	<b>EFFECT IF CARRIED</b>	<b>EFFECT IF LOST</b>
Adjournment of Meeting indefinitely	That this Meeting be adjourned until further notice	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking  (c) During a Meeting which is a call of the Council	Meeting adjourns until further notice	Meeting continues unaffected
The Closure	That the question be now put	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	No	Any matter	During nominations for Chairperson (NB A closure motion shall not be accepted by the Chairperson unless the Chairperson considers there has been sufficient debate for and against the original motion or amendment)	Motion or amendment in respect of which the closure carried is put to the vote immediately	Debate continues unaffected

<b>PROCEDURAL MOTION</b>	<b>FORM</b>	<b>WHO CAN MOVE OR SECOND</b>	<b>IS A SECONDER REQUIRED?</b>	<b>MATTER IN RESPECT OF WHICH MOTION MAY BE MOVED</b>	<b>WHEN MOTION PROHIBITED</b>	<b>EFFECT IF CARRIED</b>	<b>EFFECT IF LOST</b>
Laying the question on the table	That the matter lie on the table	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	Yes	Any matter	(a) During the election of the Chairperson  (b) During a Meeting which is a call of the Council	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) Matter is placed on an Agenda and the Council resolves to take the question from the table	Debate continues unaffected
Proceeding to the Next Business	That the Meeting proceed to the next business	A Councillor who has not moved, seconded or spoken to the matter to which the motion relates	Yes	Any matter	(a) During the election of the Chairperson  (b) During a Meeting which is a call of the Council	(a) If carried in respect of a motion, its effect is to remove that motion from consideration  (b) If carried in respect of an amendment, its effect is to dispose of the amendment and debate resumes upon the substantive motion	Debate resumed at point of interruption



## PROCEDURAL MATTERS LOCAL LAW

### NO. 1 OF 2018

I certify that this is a true copy of the Procedural Matters Local Law No. 1 of 2018 made by the Whittlesea City Council on [insert date] in accordance with the requirements of the *Local Government Act 1989*.

The notices required to be given by section 119(2) of that Act appeared in Victoria Government Gazette No. G15 on 12 April 2018 and in the Whittlesea Leader newspaper on 17 April 2018.

The notices required to be given by section 119(3) of that Act were given in the Victoria Government Gazette No. G15 on 12 July 2018 and in the Whittlesea Leader newspaper on 10 July 2018. A copy of this Local Law was sent to the Minister for Local Government on 16 July 2018.

The Local Law commenced operation on 1 August 2018 and will expire on 31 July 2028.

.....  
Chief Executive Officer

#### History of Local Law

Date Made	Amended	Operation Date	Gazettal Date	Title
3/7/2018	N/A	1/8/2018	12/7/2018	Procedural Matters Local Law No. 1 of 2018

- end -