



Frankston City Council

Local Law No. 1 of 2018

Governance Local Law

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PART A – INTRODUCTION

1. Title

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

2. Purpose of this Local Law

- (1) The purpose of this Local Law is to provide for the orderly, efficient and equitable conduct of meetings of Council and Special Committees.
- (2) Specifically, this Local Law is to:
 - (a) provide a mechanism to facilitate the good government of *Council* through its formal meeting procedure to ensure effective and efficient *Council* decisions are made in a manner which acknowledges the role of local government within the Australian system of government;
 - (b) promote and encourage community participation in the system of local government by providing mechanisms for *Council* to ascertain the community's views and expectations;
 - (c) provide for the election of the *Mayor* and Deputy Mayor;
 - (d) regulate the use of the *common seal*;
 - (e) prohibit unauthorised use of the *common seal* or any device resembling the *common seal*;
 - (f) provide for the procedures governing the conduct of *Council meetings* and *Special Committee* meetings, *Advisory Committee* meetings and Councillor Briefings, to facilitate their orderly, efficient and equitable operation;
 - (g) 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
 - (h) provide for the role of the *Mayor* Deputy Mayor.

3. Authorising provision

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

4. Commencement and end dates

This Local Law:

- (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 10th anniversary of the day on which it commenced operation.

5. Revocation of Local Law No. 1 of 2015

On the commencement of this Local Law, Council's Governance Local Law No. 1 of 2015 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 period between 8.30am and 5.00pm on 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 Frankston 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*;

"**senior officer**" has the same meaning as in the *Act*;

"**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 is raised under clause 30;

"**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.

7. Review of Local Law

To ensure the appropriate functioning of *Council meetings* this Local Law will be formally reviewed every four years before the public, or sooner if *Council* determines that a review is required by any particular circumstance.

This Local Law can be amended from time to time in accordance with the statutory procedure for making a local law, to best suit Council's circumstances.

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.

8. 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 October, in years between general elections of Councillors; and
 - (c) as soon as practicable after the office of *Mayor* otherwise becomes vacant.
 - (2) A temporary *Chair* must be elected to facilitate the election of the *Mayor* in accordance with the provisions of this Local Law and the *Act*.
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9. Method of voting

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

10. Determining the election of the *Mayor*

- (1) The temporary *Chair* 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 and those nominated have accepted their nomination, the following provisions will govern the election of the *Mayor*:
 - (a) if there is only one nomination, the candidate nominated is deemed to be elected;
 - (b) if there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates and each of the candidates shall be allowed three minutes to speak to their nomination, which cannot be extended;
 - (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 one 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 one 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 two or more candidates having an equality of votes and one 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 one 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 two 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 one 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).

11. Election of Deputy Mayor and *Chairs*

- (1) At a meeting to elect the *Mayor, Council* will, immediately after the election of the Mayor, elect a Deputy Mayor.

- (2) Any election for:
- (a) the office of Deputy Mayor; or
 - (b) temporary *Chair*, in cases where a temporary *Chair* needs to be elected under clause 12

will be regulated by clauses 8-10 (inclusive) of this Local Law, as if, in the case of any election for Deputy Mayor, the reference to the:

- (c) temporary *Chair* is a reference to the *Mayor*; and
 - (d) *Mayor* is a reference to the Deputy Mayor.
- (3) The role of the Deputy Mayor is to perform the duties ascribed to the Mayor where the Mayor is absent, unless the Deputy Mayor has a conflict or is unavailable.

12. Identity of temporary *Chairs*

If:

- (1) the *Mayor* and any Deputy Mayor are absent from a *Council meeting*;
- (2) it is a meeting to elect the *Mayor*; or
- (3) for any other reason a temporary *Chair* is required,

the Councillor who most recently served as *Mayor* will be the temporary *Chair* or, if no such Councillor is present, a Councillor who is elected by the meeting to be temporary *Chair* will become the temporary *Chair*.

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.

13. *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) one Councillor and the *Chief Executive Officer*; or

- (b) in the absence of the *Chief Executive Officer*, one Councillor and a member of Council staff authorised to perform this function by the *Chief Executive Officer*.
- (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.

PART D – COUNCILLOR BRIEFING ARRANGEMENTS

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

Councillors meet on a number of occasions 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.

14. 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 gatherings are not a decision-making forum.
- (4) The gatherings are not open to the public and will generally be held in the Civic Centre or in such other locations as *Council* nominates from time to time.
- (5) Clauses 86(5), 89, 90(1)(c) and (d), 92 and 93 apply to any gathering of Councillors at a scheduled briefing as if any reference to:
 - (a) the *Chair* is a reference to the Councillor chairing the gathering;
 - (b) the meeting is a reference to the gathering; and

- (c) the Chamber is a reference to the room in which the gathering is being held.
- (6) A Councillor who is unable to attend a scheduled briefing must give notice of their apology to the *Chief Executive Officer* as soon as possible but no later than four hours prior to the scheduled briefing commencement time, unless exceptional circumstances exist, so that reasonable notice can be given to other Councillors and Council staff if a briefing is to be cancelled due to insufficient numbers.
- (7) 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*.

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.

DIVISION 1 – NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

15. Dates and times of meetings

- (1) The dates, times and places of meetings are within the discretion of *Council*.
- (2) *Council* will, by resolution at the meeting at which the *Mayor* is to be elected, determine the day and time upon which any *Ordinary meetings* will be held and may by further resolution alter any such dates, times or places.
- (3) An *Ordinary meeting* may only be rescheduled or cancelled by a resolution of *Council*. *Council* must provide a reason for and reasonable notice of the change to the public.

16. Council / Committee meeting location

- (1) *Ordinary meetings* and *Special Committee* meetings will be held in the Council Chambers, or any building within the Civic Centre Precinct as determined by the *Mayor*, or another location outside the Civic Centre Precinct by resolution of *Council* or the *Special Committee* (as the case may be).
- (2) *Special meetings* may be held at the Council Chambers or elsewhere in the Civic Centre as determined by the *Mayor*.

17. Special meetings

- (1) The *Mayor* or at least three 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.

18. 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 (at the option of the Councillor) to every Councillor for all *Ordinary meetings* after noon on a day which is at least four clear days before the meeting.

If a Council meeting is scheduled for a Monday evening, the notice of meeting (including the agenda) must be delivered or sent electronically by the immediately preceding Thursday evening.

- (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) a draft *agenda* for each *Ordinary meeting* must be delivered or sent electronically (at the option of the Councillor) to every Councillor at least ten clear days before the meeting; and
 - (b) a notice of meeting or draft *agenda* need not be served on or sent to any Councillor who has been granted leave of absence unless the Councillor has requested the *Chief Executive Officer* in writing to continue to give notice of any meeting 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, and arranging publication of such schedule on *Council's* website and 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; andunless 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 and the entrance of the Council Chambers and Civic Centre.
- Section 89(4) of the Local Government Act 1989 requires at least seven days' notice of a council meeting to be given to the public. Subsection (4A) requires 'urgent or extraordinary circumstances' to exist and be recorded in the minutes where less than seven days' notice of a meeting has been given.*
- (5) Copies of the *agenda* and any related material for *Ordinary meetings* must be made available to members of the public after noon on a day which is at least

four clear days before the meeting, by being made available at the Civic Centre and on *Council's* website.

If a Council meeting is scheduled for a Monday evening, the agenda and any related material must appear on Council's website by the immediately preceding Thursday evening. Hard copies of the agenda and any related material must be available for inspection or collection from the Friday morning immediately preceding the Monday evening meeting.

- (6) Copies of the *agenda* and any related material for *Special meetings* and *Special Committee* meetings must be made available to members of the public immediately after they are delivered or sent electronically to Councillors, by being made available at the Civic Centre and on *Council's* website.

19. Agenda

- (1) The *agenda* for an *Ordinary meeting* will be determined by the Mayor and the *Chief Executive Officer* jointly, but the views of Councillors expressed at any relevant Councillor briefing are to be taken into account in finalising the *agenda*.
- (2) Late reports can only be accepted into the *agenda* by a majority vote of Councillors.

DIVISION 2 – QUORUMS

20. Ordinary meetings

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

21. Special meetings

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

22. 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, those Councillors present or, if there are no Councillors present, the *Chief Executive Officer* or, if the *Chief Executive Officer* is absent, any *senior officer* who is present, may adjourn the meeting for a period not exceeding seven days.

23. 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 22 will apply as if the reference to the meeting is a reference to so much of the meeting as remains.

24. 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* or, if there is no *Chair*, the *Chief Executive Officer* or, if the *Chief Executive Officer* is absent, any *senior officer* who is present, may 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*.

25. 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 (1) to be in writing, the *Chief Executive Officer* must give notice to each Councillor by telephone, in person, by electronic mail or by SMS message.
- (3) Notice must also be provided to the public of the resumption of the adjourned meeting by either giving public notice (if time reasonably permits) or publishing details on *Council's* website and posting a notice at the entrance to the Council Chambers and Civic Centre.

26. Time limits for meetings

- (1) An *Ordinary meeting* and *Special meeting* must not continue for more than four hours from its commencement 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 as soon as four hours passed since the commencement of the meeting.
- (3) A continuance must not exceed 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 25(1) and (2) apply.

DIVISION 3 – BUSINESS OF MEETINGS

27. The order of business

- (1) The business of an *Ordinary meeting* must be conducted in the following order unless the *Council* otherwise resolves:
 - (a) Councillor statement regarding conflicts of interest, opening prayer and acknowledgement of Traditional Owners;
 - (b) Minutes of last meeting or meetings confirmed and signed;
 - (c) Apologies;
 - (d) Disclosure of interest and declarations of conflict of interest;
 - (e) Public questions and submissions time;
 - (f) Items brought forward;
 - (g) Consideration of reports of committees;
 - (h) Consideration of reports of officers;
 - (i) Presentation of petitions and joint letters;
 - (j) Delegates' reports
 - (k) Notices of motion;
 - (l) Late reports;
 - (m) Urgent business;
 - (n) Items to be dealt with in Closed Council:
 - (i) Disclosures of interest and declarations of conflict of interest;
 - (ii) Considerations of reports of officers;
 - (iii) Notices of motion; and
 - (iv) *Urgent business*.
- (2) Notwithstanding the above clause, the *Chief Executive Officer* may vary the order of business to take advantage of opportunities which may arise from time to time.

28. Change to order of business

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

29. 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.

30. Urgent business

- (1) Business which has not been listed on the *agenda* must only be raised as *Urgent Business* by resolution of *Council*.
- (2) Unless exceptional circumstances exist and *Council* approves by resolution, only items:
 - (a) of minimal impact; and
 - (b) which have arisen since distribution of the *agenda* and cannot safely and conveniently be deferred until the next *Council meeting*may be raised in *Urgent Business*.

- (3) The following items are deemed not to be items of minimal impact (and, therefore, unless exceptional circumstances exist and *Council* approves by resolution, cannot be raised in *Urgent Business*):
- (a) the creation or abolition of any office;
 - (b) the appointment of any person to any office or termination of that appointment;
 - (c) employment issues;
 - (d) the sale or lease of any assets;
 - (e) the declaration of any rate or charge;
 - (f) the creation, alteration or abolition of any strategy, policy or guideline;
 - (g) any request for an investigation which will unreasonably or substantially divert staff resources;
 - (h) any request for a report which will unreasonably or substantially divert staff resources;
 - (i) the commitment of funds, or in kind contributions, for any purposes which will exceed \$5,000; and
 - (j) the content, and provision, of any media release.

31. 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* or an attendee at a *Council* approved conference / seminar.
- (2) In presenting, the Councillor may for up to three 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.

DIVISION 4 – MOTIONS AND DEBATE

32. Councillors may propose *notices of motion*

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

33. *Notice of motion*

*Amended by
Governance
(Amendment)
Local Law 2019,
cl 6.1.*

- (1) A *notice of motion* must be in writing signed by a Councillor, and be delivered or sent electronically to the *Chief Executive Officer* by no later than noon at least 11 clear days before the meeting at which it is intended to be considered.

If a Council meeting is scheduled for a Monday evening this means that any notice of motion must be lodged prior to noon on the Thursday eleven days prior to the meeting date.

*Amended by
Governance
(Amendment)
Local Law 2019,
cl 6.2.*

- (2) A *notice of motion* will not be accepted if it:
- (a) relates to a matter in respect of which *Council* has no power to act;

This does not preclude a notice of motion which calls for Council to advocate or lobby to other levels of government for change.

- (b) declares a rate or charge;
- (c) is defamatory, indecent, abusive or objectionable in language or substance;
- (d) promotes or is likely to facilitate a threat to public order or safety;
or
- (e) seeks to substantially affect the level of *Council* services, commit *Council* to significant expenditure not included in the adopted Budget or commit *Council* to any contractual arrangement, without first calling for a formal report to be prepared and presented to *Council* in response to the *notice of motion*.
- (3) The *Chief Executive Officer* may reject any *notice of motion* which is vague or unclear in intention but must:
- (a) notify the Councillor who lodged the *notice of motion* of the rejection and reasons for the rejection; and

- (b) provide reasonable assistance to the Councillor to help ensure that a *notice of motion*:
 - (i) of similar intention; but
 - (ii) which is neither vague nor unclearis lodged.
- (4) The full text of any *notice of motion* accepted by the *Chief Executive Officer* must be included in the *agenda* and, where practicable, will be accompanied by comments from a *senior officer* with responsibility for the subject matter or the issue to which the *notice of motion* relates.
- (5) 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.
- (6) Except by leave of *Council*, *notices of motion* before any meeting must be considered in the order in which they were entered in the *notice of motion* register.
- (7) 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.
- (8) If a *notice of motion* is not moved at the meeting at which it is listed, it lapses.
- (9) If a *notice of motion* is moved but not seconded, it lapses.
- (10) Except where the *notice of motion* is to confirm a previous resolution of *Council*, the *notice of motion* may be amended.
- (11) 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. A motion must be put to the meeting to give approval for the Councillor moving the *notice of motion* to amend it, prior to putting forward the suggested amending words.
- (12) Once a *notice of motion* has been moved and seconded, the mover cannot amend it.
- (13) Notwithstanding sub-clause (11) another Councillor may move an amendment to the *notice of motion*, which motion must be dealt with in accordance with clause 35(2) of this Local Law.
- (14) A Councillor cannot foreshadow an alternate motion to amend another Councillor's *notice of motion*.

34. Chair's duty

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

- (1) defamatory of or embarrassing to any Councillor, member of *Council* staff or other person;
- (2) abusive or objectionable in language or nature;
- (3) a direct negative of the question before the *Chair*;
- (4) vague or unclear in intention;
- (5) outside the powers of *Council*; or
- (6) 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*.

35. 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:

“Does the mover wish to speak to the motion or amendment?”
 - (d) after the mover has addressed the meeting or been provided with an opportunity to address the meeting, the seconder may address the meeting;
 - (e) 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 or contributions by calling on any Councillor who wishes to speak to the motion (including the seconder if he or she has not already spoken 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

- (f) if, after the mover has addressed the meeting, the *Chair* has invited debate or contributions 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 *Chair* or members of *Council* staff present at the meeting.
- (3) The *Chair* may only debate a motion by speaking immediately after the mover and seconder of the motion have been given opportunity to speak to the motion.
- (4) If the *Chair* wishes to move or second a motion then the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor (if the *Chair* is the *Mayor*) must take the chair or, if there is no such Councillor in a position to take the chair, a temporary Chairperson must take the chair in accordance with clause 12 whereupon the *Chair* must vacate the chair and not return to it until the motion has been resolved upon.

36. Right of reply

- (1) The mover of a motion which has not been amended 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.

37. 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.

38. 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 two 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.
-

39. How many amendments may be proposed

- (1) No more than three amendments may be proposed to a motion but only one 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.
-

40. 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.
-

41. 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*.

42. Withdrawal of motions

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.

43. Separation of motions

- (1) Where a motion contains more than one part:
 - (a) *Council* by resolution; or
 - (b) in the absence of a resolution, the *Chair*
may require the motion to be put to the vote in separate parts.
- (2) Debate will not be permitted on any question that a motion in more than one part be put to the vote in separate parts.

44. *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.

45. Priority of address

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

46. 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.

47. 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.

48. 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 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.

49. 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: three minutes;
 - (b) the mover of a motion exercising a right of reply: three minutes; and
 - (c) any other Councillor: three minutes.
- (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 three minutes.

50. 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 direct all remarks through the *Chair*.

51. If lost

If a *notice of motion* is lost, a similar *notice of motion* cannot be put before *Council* for at least 90 days from the date it was lost unless *Council* resolves that such a *notice of motion* be listed sooner.

52. 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) Any question asked of a member of *Council* staff must not have the effect of:

(a) embarrassing the member of staff; or

(b) drawing the member of staff into the debate.

(3) Any question asked in contravention of sub-clause (2) may be disallowed by the *Chair*.

(4) The *Chair* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 5 – PROCEDURAL MOTIONS

53. 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) The mover of a procedural motion must not have moved, seconded or spoken to the question before the *Chair* or any amendment of it.

- (4) Notwithstanding any other provision in this Local Law, procedural motions must be dealt with in accordance with the following table:

PROCEDURAL MOTIONS TABLE

Procedural Motion	Form	Mover & Seconder	When Motion Prohibited	Effect if Carried	Effect if Lost	Debate Permitted on Motion
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

DIVISION 6 – RESCISSION MOTIONS

54. Notice of rescission

- (1) A Councillor may propose a *notice of rescission* provided:
- (a) it has been signed and dated by at least four Councillors, including one Councillor who previously supported the resolution proposed to be rescinded;
 - (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 three *business days* of the conclusion of the meeting at which the resolution was carried, 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 communicated in writing 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 54(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.

55. If lost

If a *notice of 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.

56. If not moved

If a *notice of 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.

57. May be moved by any Councillor

A notice of rescission listed on an agenda may be moved by any Councillor present but may not be amended.

58. When not required

A notice of rescission is not required where Council wishes to change policy.

DIVISION 7 – POINTS OF ORDER

59. Valid points of order

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

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

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

60. 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.

61. Chair to decide

- (1) 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.
- (2) In the event a point of order is raised against the *Chair* then the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor (if the *Chair* is the *Mayor*) must take the chair or, if there is no such Councillor in a position to take the chair, a temporary Chairperson must take the chair in accordance with clause 12 whereupon the *Chair* must vacate the chair and not return to it until the point of order has been resolved upon.
- (3) Should repeat points of order be raised during debate by a Councillor, which are ruled against by the *Chair*, the *Chair* may consider the conduct of the Councillor raising unsuccessful points of order disruptive for the purposes of clause 89 and, in accordance with that clause, order the removal of such Councillor from the Chamber for a specified period.

62. No debate

A Councillor must not debate a point of order or the merits of a point of order, however the *Chair* may request the Councillor to explain the point of order.

63. 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.

64. 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.

65. 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 the *Mayor* (if the *Chair* is not the *Mayor*) or Deputy Mayor must chair the meeting; or
 - (b) if there is no Deputy Mayor the *Chair* must leave the chair and the chair must be assumed by a temporary Chairperson.
- (3) The Deputy Mayor or the temporary Chairperson 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 Chairperson 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.

DIVISION 8 – PUBLIC QUESTION TIME

66. 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*. Questions may be asked of *Council*, and may not be directed to individual Councillors.
- (2) Public question time will be conducted in accordance with any policy adopted by *Council* from time to time.

The policy adopted by Council may distinguish between Questions With Notice (that are to be lodged a number of days before the Ordinary meeting, and which must be

the subject of a considered response at the meeting) and Questions Without Notice (that can be lodged shortly prior to the Ordinary meeting, and to which a written answer may need to be given in the days following the meeting).

- (3) Questions submitted to *Council* must be:
 - (a) in hard copy or be sent electronically, 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 *Council's* offices (in the case of a question submitted in hard copy) or sent to *Council* (in the case of a question submitted electronically) by the time specified in any policy adopted by *Council* from time to time.
- (4) No person may submit more than three questions at any one 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 three questions are received, only the first three questions will be considered. All parts of the question must be relevant to the same subject of enquiry.
- (5) The *Chair* or *Chief Executive Officer* must read to those present at the meeting a question in its entirety which has been submitted in accordance with this clause.
- (6) Questions that relate to operational matters may be read but answered in writing by the *Chief Executive Officer* outside the meeting.
- (7) Notwithstanding sub-clause (5), the *Chair* or *Chief Executive Officer* 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* or *Chief Executive Officer* without causing it to be read if the *Chair* or *Chief Executive Officer* determines that it:
 - (a) it is the nature of a statement or is so prefaced as to have its emphasis on a statement rather than a genuine enquiry (although, in that event, the *Chair* or *Chief Executive Officer* should, if practicable, read an edited version of the question);
 - (b) relates to a matter outside the duties, functions and powers of *Council*;
 - (c) is defamatory, abusive, offensive or objectionable in language or substance;

- (d) deals with a subject matter already answered; or
 - (e) is aimed at embarrassing a Councillor or a member of *Council* staff.
- (9) If a question is asked and is taken on notice or it is indicated that a written answer to the question will be given, the *Chief Executive Officer* must ensure that:
- (a) the questioner is asked to provide his or her contact details, unless those details are already known by *Council*;
 - (b) a written answer to the question is delivered or sent electronically to the questioner within seven days of the meeting or any contact details being provided (whichever occurs last); and
 - (c) the question be recorded in the minutes of the meeting, together with a copy of the written response.

DIVISION 9 – PETITIONS AND JOINT LETTERS

67. Petitions and joint letters

- (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 or joint letter until the next *Ordinary meeting* after that at which it has been presented.
- (2) It is incumbent on every Councillor presenting a petition or joint letter to acquaint himself or herself with the contents of that petition or joint letter, and to ascertain that it does not contain language disrespectful to *Council*.
- (3) Every Councillor presenting a petition or joint letter to *Council* must 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 any request.
- (4) Every petition or joint letter presented to *Council* must be written (other than pencil in a hard copy form), contain the request of the petitioners or signatories and, in the case of a petition, be signed by at least five people.
- (5) A petition must include a request on every page, consisting of the following words:

“We the undersigned hereby petition Frankston City Council”
- (6) Every petition or joint letter must be signed by the persons whose names are included in or 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 or joint letter must 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 received and a report be submitted to a specific meeting cycle for consideration;
 - (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 or any other *Council* or *Special Committee agenda*; and
 - (e) That the petition be referred to the *Chief Executive Officer* for consideration and response and the response to the petition be submitted to a specific meeting cycle for finalisation.
- (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.

68. Submissions by incorporated associations

It will be assumed that a submission which is presented on an incorporated association's letterhead, and which purports to be on behalf of the incorporated association, has, in fact, been appropriately authorised.

DIVISION 10 – PUBLIC SUBMISSIONS

69. 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* or *Special meeting* may make a request to the *Chief Executive Officer* or his or her nominee.

70. Requests to present

- (1) A request to present must be received by the *Chief Executive Officer* or any member of *Council* staff nominated by him or her, before a time specified in any policy adopted by *Council* from time to time.
 - (2) A person requesting to present must, if asked to do so, specify their name, address and contact telephone number and must, in any event, nominate the item to which he or she wishes to speak.
 - (3) Requests received after the time referred to in sub-clause (1) will not be considered by the *Special Committee* or *Council* (as the case may be).
-

71. When a presentation can be made

A person may only present to a designated meeting of a *Special Committee* or an *Ordinary meeting* or *Special meeting* if he or she:

- (1) proposes to present to an item on the *agenda*; and
 - (2) has been registered to speak following a request made under clause 69.
-

72. Limitations upon speakers

If a *Special Committee* or *Council* at an *Ordinary meeting* or *Special meeting* determines to hear from an individual who has been registered to speak the person addressing the *Special Committee* or *Ordinary meeting* or *Special meeting* must comply with any policy relating to presentation adopted by *Council* from time to time.

73. Questions but no discussion permitted

Following a speaker's presentation, members of the *Special Committee* or Councillors at an *Ordinary meeting* or *Special 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 or her presentation which may assist in the deliberations prior to the elected body making a decision but no discussion will be allowed.

74. 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 five minutes. One extension of up to one minute may be granted by the *Chair*.
- (2) Councillors may, through the *Chair*, question or seek clarification of any submitter in relation to his or her submission.
- (3) 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 matter when it is considered at the *Ordinary meeting* or *Special meeting*.

75. Relaxation of requirement

Nothing in this Division prevents:

- (a) the *Chief Executive Officer* determining which 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, no longer hear from the individual wishing to be heard.

DIVISION 11 – VOTING

76. How motion determined

To determine a motion before a meeting, the *Chair* must first call for those in favour of the motion, those opposed to the motion and (if applicable) those abstaining from voting, and must then declare the result to the meeting.

77. Silence

Voting must take place in silence.

78. Recount

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

79. 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 section 90(2) of the Act.

80. By show of hands

Voting on any matter is by show of hands.

81. 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 will 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 one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any member of *Council* staff taking the minutes must record, the names of those Councillors voting in the affirmative;
- (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 one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any member of *Council* staff taking the minutes must record, the names of those Councillors voting in the negative; and
- (c) finally ask each Councillor wishing to abstain from voting to raise a hand and, upon such request being made, each Councillor wishing to abstain from voting must raise one of his or her hands. The *Chair* must then state, and the *Chief Executive Officer* or any member of *Council* staff taking the minutes must record, the names of those Councillors abstaining from voting.

82. 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 82 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 82 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 82(b), to discussion about a positive motion were a resolution has just been rescinded.

DIVISION 12 – MINUTES

83. 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 draft minutes must be delivered to each Councillor no later than 48 hours after the Mayor has signed the minutes;
 - (b) if no Councillor indicates opposition, the minutes must be declared to be confirmed;
 - (c) if a Councillor is dissatisfied with the accuracy of the minutes, he or she must:
 - (i) state the item or items with which he or she is dissatisfied; and
 - (ii) propose a motion clearly indicating the alternative language necessary to amend the minutes;
 - (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, and any abstention from voting, when the vote was not unanimous or when the vote was taken upon a division;
 - (viii) the vote cast or any abstention from voting by any Councillor who has requested that his or her vote or abstention from voting 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".

84. 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.

85. 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.

86. Recording of meetings

- (1) The *Chief Executive Officer* or his/her delegate must record on suitable recording equipment all proceedings of an *Ordinary meeting* or *Special meeting* except where the meeting is closed to the public in accordance with section 82(2) of the *Act*. The copyright in the recordings of the proceedings will vest in *Council*, and permission must be sought to copy, communicate or transmit a recording of the proceedings, or part of a recording of the proceedings.
- (2) The proceedings will be live streamed and recordings of the proceedings will be retained and will be placed on *Council's* website within 24 hours of the end of the meeting.
- (3) Members of the public are to be advised that the meeting is being recorded and the recording will be made available to members of the public via *Council's* website. Members of the public are to be advised by appropriate signage that while care is taken to maintain a person's privacy as an attendee in the gallery, they may be recorded.
- (4) Subject to sub-clause (1) above, members of the public must not operate photographic audio or video recording equipment or any other recording device at any *Ordinary meeting* or *Special meeting* without first obtaining the consent of *Council*. Such consent may at any time during the course of such meeting be revoked by *Council*.

Penalty: 5 penalty units

A member of the public who breaches clause 86(3) may also be breaching other legislation or become civilly liable, such as where the recording unlawfully infringes the privacy, or gives rise to harassment, of another who is present at the meeting.

- (5) All Councillors must have their microphones switched on when speaking at a *Council meeting*.

DIVISION 13 – BEHAVIOUR

87. Display of placards and posters

A person must not:

- (1) display any offensive, indecent, insulting or objectionable item or words in the Council Chambers; or
- (2) obstruct the entrance to the Council Chambers or a building where a *Council meeting* or a *Special Committee* meeting is being or about to be held.

Penalty: 5 penalty units.

88. Public addressing the meeting

- (1) Members of the public do not have a right to address *Council* and may only do so 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.
-

89. Chair may remove

- (1) 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.
- (2) Any person removed from the meeting under sub-clause (1) must not return to the meeting without the approval of the *Chair* or *Council*.

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

- (3) In the event the *Chair* causes the removal of a Councillor from a meeting, the *Chair* must specify the period of time for which the removal will take effect.

90. 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) any person, including a Councillor, who is guilty of any improper or disorderly conduct, to not leave the Chamber when requested by the *Chair* to do so; or

Penalty: 2 penalty units

- (d) 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

Penalty: 2 penalty units.

The penalty units set out in this sub-clause and elsewhere (eg clause 86(3)) 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 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 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 offence.
- (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.

91. 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 25(1) and 25(2) apply.

92. Removal from Chamber

The *Chair* or *Council* 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 meeting under clause 89 of this Local Law.

DIVISION 14 – ADDITIONAL DUTIES OF CHAIR

93. The *Chair's* duties and discretions

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

- (a) may demand retraction of any inappropriate statement or unsubstantiated allegation;
- (b) must ensure silence is preserved by all other persons while a Councillor or other speaker is addressing the meeting;
- (c) 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;
- (d) must call to order any person who is disruptive or unruly during any meeting; and
- (e) must be impartial and fair, and must take steps to ensure that no Councillor is demeaned or denigrated during any Council meeting.

DIVISION 15 – SUSPENSION OF STANDING ORDERS

94. 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."

DIVISION 16 – MISCELLANEOUS

95. Procedure not provided in Local Law

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

- (i) 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.

DIVISION 17 – SPECIAL AND ADVISORY COMMITTEES

96. 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 sub-clause (1), a reference in Division 1-16 of this Local Law to:

(a) an *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*.

97. Application to *Special Committees* specifically

Notwithstanding clause 96, 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.

98. 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 sub-clause (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*.

99. Application to *Advisory Committees* specifically

Notwithstanding clause 98, 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.

100. Adoption of recommendation

If a recommendation of a *Special Committee* is adopted by *Council*, what has been recommended becomes a resolution of *Council*.

The resolution for the making of this Local Law was agreed to by Frankston City Council on 22 October 2018.

This Local Law incorporates amendments made by Governance (Amendment) Local Law 2019, which was adopted by Frankston City Council on 1 April 2019.

Schedule 1
Governance Local Law No. 1
Penalties Fixed for Infringement Notices

Local Law Provision	Offence	Penalty Units
86(3)	Recording meeting without prior approval	5
87	Displaying certain objects or words or obstructing entrance to Council Chambers or building	5
90(1)(a)	Using the <i>common seal</i> or replica without authority	10
90(1)(b)	Fraudulently signing a petition or joint letter	5
90(1)(c) and (d)	Call to Order – Failing to comply with a direction of the <i>Chair</i>	2