



**BALLARAT CITY COUNCIL
MEETING PROCEDURE LOCAL LAW**

**Adopted by Council on: XXXXXXXX
Commencement Date: XXXXXX
Revocation Date: XXXXXX**

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PART A INTRODUCTION

1. Title

This Local Law will be known as the "Meeting Procedure Local Law".

2. Objectives of this Local Law

The objectives of this Local Law are to:

- 2.1. provide for the election of the *Mayor* and *Deputy Mayor*;
- 2.2. regulate the use of the *Common Seal*;
- 2.3. prohibit unauthorised use of the *Common Seal* or any device resembling the *Common Seal*;
- 2.4. provide for the procedures governing the conduct of *Council Meetings* and *Special Committees*; and
- 2.5. provide for the appointment of *Councillors* to *Advisory Committees*, *Special Committee* positions and external boards.

3. Authorising provision

This Local Law is made under sections 5, 91 and 111 of the *Act*.

4. Commencement and end dates

This Local Law:

- 4.1. commences on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette, and operates throughout the *Municipal District*; and
- 4.2. ends on the 10th anniversary of the day on which it commenced operation, unless revoked sooner.

5. Revocation of Local Law No. 18 (as amended)

On the commencement of this Local Law, *Council's Meeting Procedure Local Law No. 18* (as amended) is revoked.

6. Definitions and notes

6.1. In this Local Law:

"Act" means the Local Government Act 1989 (as amended from time to time);

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

"Agenda" means the document containing the date, time and place of a Meeting and lists the business to be transacted at a Council Meeting and includes a revised Agenda;

"Annual (Statutory) Meeting" means the Special Meeting held for the purpose of electing the Mayor;

"Assembly of Councillors" has the same meaning as defined in the Act;

"Authorised Officer" means a means a person appointed as an Authorised Officer under s 224 of the Act;

"Caretaker Period" has the same meaning as 'election period' in Section 3(1) of the Act, and means the period that starts on the entitlement date and ends at 6pm on Election Day;

"Chamber" means any room where Council holds a Council Meeting;

"Chairperson" means the Chairperson of a Council Meeting and includes an acting, a temporary and a substitute Chairperson;

"Chief Executive Officer" means the Chief Executive Officer of Council or the person acting in or performing the position of Chief Executive Officer;

"Committee Meeting" means a Meeting of a Special or Advisory Committee of the Council;

"Common Seal" means the Common Seal of Council;

"Council" means Ballarat City Council;

"Council Meeting" includes an Ordinary Meeting, a Special Meeting, but does not include an Assembly of Councillors;

"Councillor" means a person who holds office as a member of the Council as defined under the Act;

"Councillor Code of Conduct" means the code of conduct developed by the Council under Section 76C of the Act;

"Deputy Mayor" means the Deputy Mayor of Council elected in accordance with this Local Law;

"Leave of Absence" means formal leave requested and taken by a Councillor who is not available, or unable, to perform their Council duties for a specified period of time;

"Majority" means the votes cast by a Majority of the Councillors or members of a Special Committee present at a Meeting at the time the vote is taken;

"Mayor" means the Mayor of Council;

"Meeting" includes an Ordinary Meeting, a Special Meeting and a Special Committee Meeting;

"Minutes" means the record of proceedings of a Meeting of the Council or a Special Committee of the Council;

"Municipal District" means the municipal district of Council;

"Notice of Amendment" means a Notice of Motion to amend a resolution made by Council;

"Notice of Motion" means a motion of which prior notice has been given by a Councillor in accordance with the requirements of this Local Law;

"Notice of Rescission" means a Notice of Motion to rescind a resolution made by Council;

"Offence" means an act or default in breach of this Local Law;

"Officer" means an employed member of Council staff;

"Operational service request process" means a request for action through the Customer Request System in use by the Council or request relating to the day to day management of Council operations as defined in Section 94A(1) of the Act as the functions of the Chief Executive Officer;

"Ordinary Meeting" means any Meeting of Council which is not a Special Meeting or a Meeting of a Special Committee;

"Penalty Units" mean penalty units as prescribed by the Sentencing Act 1992;

"Quorum" means the minimum number of Councillors necessary to conduct the business of Council. A quorum is half the Council members plus one.

"Repetitious Motion" means (a) a motion moved that is to the same effect, even if it is in a different form, as a motion (with or without amendment) that has been rejected by Council at the same Meeting; or (b) a motion that substantially covers the same ground as a motion or amendment already dealt with by Council at the same Meeting;

"Special Committee" means a Special Committee established by Council under section 86 of the Act;

"Special Committee Meeting" means a Meeting of Council convened and held in accordance with section 87 of the Act;

"Special Meeting" means a meeting of Council convened and held in accordance with section 84 of the Act;

"Standing Orders" means the provisions of this Local Law which govern the conduct of Meetings;

"Suspension of Standing Orders" means a suspension of the provisions of this Local Law, to facilitate full discussion on an issue without formal Local Law constraints;

"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 or Special Committee Meeting;

"Visitor" means any person (other than a Councillor or an Officer) present at a Meeting;

"Written" or "In Writing" includes duplicated, photocopied, photographed, printed and typed and extends to both hard copy and soft copy form.

- 6.2. Introductory notes to parts, divisions, headings, and explanatory notes do not form part of this Local Law. They are provided to assist understanding of the Local Law only.

PART B - SWEARING IN OF COUNCILLORS AND ELECTION OF MAYOR

Introductory Note: This Part describes how the *Mayor* and *Deputy Mayor* are to be elected after a general election and the annual election of *Mayor* and *Deputy Mayor*.

7. Swearing in of Councillors

- 7.1. The *Chief Executive Officer* must open the first *Meeting* called after a general election pursuant to the *Act* and may then preside over the *Meeting*.
- 7.2. Once all *Councillors* present are sworn in and made a declaration to abide by the *Councillor Code of Conduct*, the *Meeting* may elect a temporary *Chairperson*.

8. Election of Mayor

- 8.1. The *Mayor* must be elected annually at a *Meeting* of the *Council* called the *Annual (Statutory) Meeting*.
- 8.2. The *Chief Executive Officer* must facilitate the election of the *Mayor* in accordance with the provisions of the *Act* and this Local Law.
- 8.3. Subject to sub-clause 8.3.1, the *Chief Executive Officer* must determine the most appropriate time and date for the election of the *Mayor*, except that the election of the *Mayor* must be held:
 - 8.3.1. after the fourth Saturday in October but not later than 30 November in each year;
or
 - 8.3.2. in any case, as soon as possible after the office of *Mayor* becomes vacant.
- 8.4. Notwithstanding clause 8.3.1, the *Council* may resolve to elect a *Mayor* for a term of 2 years. If *Council* resolves to elect the *Mayor* for a term of 2 years, the next election of the *Mayor* is 2 years after the fourth Saturday in October but not later than 30 November in the second year after the election.
- 8.5. The order of business at the *Council Meeting* to elect the *Mayor* is to be determined by the *Chief Executive Officer*. In the absence of any changes directed by the *Chief Executive Officer*, the default order of business will be:
 - 8.5.1. Opening and Acknowledgement of Country;
 - 8.5.2. Apologies;
 - 8.5.3. Election report (at the *Council Meeting* to elect the *Mayor* following the declaration of results of a general election of *Councillors*);
 - 8.5.4. Oath of office (at the *Council Meeting* to elect the *Mayor* following the declaration of results of a general election of *Councillors*);
 - 8.5.5. *Councillor Code of Conduct* (at the *Council Meeting* to elect the *Mayor* following the declaration of results of a general election of *Councillors*);
 - 8.5.6. Appointment of Temporary *Chairperson*;
 - 8.5.7. Term of the *Mayor* and determination of the position of *Deputy Mayor*;

- 8.5.8. Election of the *Mayor*;
 - 8.5.9. Presentation and commencement speech by the incoming *Mayor*;
 - 8.5.10. Election of *Deputy Mayor* (if the position is established); and
 - 8.5.11. Ceremonial motions.
- 8.6. The *Councillor* elected to the position of *Mayor* may make a commencement speech for up to 10 minutes outlining their vision for the Mayoral term.
 - 8.7. The commencement speech may not address matters outside the powers of the *Council*, be derogatory, or be prejudicial to any person or the *Council*.

9. Procedure for Election of the Mayor

- 9.1. A *Mayor* must be elected in accordance with section 71 of the *Act*.
- 9.2. All nominations to be a candidate for *Mayor* and *Deputy Mayor* are to be provided *In Writing* to the *Chief Executive Officer* no later than a date and time to be fixed by the *Chief Executive Officer*.
- 9.3. The *Chief Executive Officer* will advise all *Councillors* of the names of the candidates within 24 hours of nominations closing.
- 9.4. The *Chief Executive Officer* must open the *Meeting* at which the *Mayor* and/or *Deputy Mayor* are to be elected; and preside until the *Meeting* elects a temporary *Chairperson*.
- 9.5. The temporary *Chairperson* must invite nominations for the office of *Mayor* which must be seconded.
- 9.6. If there is only one (1) nomination, the candidate is declared elected.
- 9.7. If there is more than one (1) nomination, a vote will be held.
- 9.8. In the event of a nominee receiving a *Majority* of the votes, that nominee is elected as *Mayor*.
- 9.9. In the event that no nominee receives a *Majority* of the votes, the nominee with the fewest number of votes is a defeated nominee. The *Councillors* present at the *Ordinary Meeting* must then vote for one (1) of the remaining nominees.
- 9.10. If one (1) of the remaining nominees receives a *Majority* of the votes, he or she is duly elected *Mayor*.
- 9.11. If none of the remaining nominees receive an *Majority* of the votes, the process of declaring the nominees with the fewest number of votes, a defeated nominee and voting for the remaining nominee must be repeated until one (1) of the nominees receives a *Majority* of the votes. That nominee is then duly elected.
- 9.12. In the event of two (2) or more nominees having an equal number of votes and one (1) of them having to be declared;
 - 9.12.1. a defeated nominee; and the other
 - 9.12.2. duly elected
 the declaration will be determined by lot.

- 9.13. If a lot is conducted, the *Chief Executive Officer* will have the conduct of the lot and the following provisions will apply:
- 9.13.1. each nominee will draw one (1) lot;
 - 9.13.2. the order of drawing lots will be determined by the alphabetical order of the surnames of the nominees who received an equal number of votes except that if two (2) or more such nominees' surnames are identical, the order will be determined by the alphabetical order of the nominees' first names;
 - 9.13.3. as many identical pieces of paper as there are nominees who received an equal number of votes must be placed in a receptacle
 - 9.13.4. if the lot is being conducted to determine which is a defeated nominee, the word "Defeated" must be *Written* on one (1) of the pieces of paper, and the nominee who draws the paper with the word "Defeated" *Written* on it must be declared the defeated nominee (in which event a further vote must be taken on the remaining nominees); or
 - 9.13.5. if the lot is being conducted to determine which nominee is to be duly elected, the word "Elected" must be *Written* on one (1) of the pieces of paper, and the nominee who draws the paper with the word "Elected" *Written* on it must be duly elected.

10. Procedure for election of the Deputy Mayor and Temporary Chairperson

- 10.1. At a *Meeting* to elect the *Mayor*, the *Council* may determine to elect a *Deputy Mayor*.
- 10.2. If *Council* determines to elect a *Deputy Mayor*, the procedure used for the election of *Mayor* will be used to elect a *Deputy Mayor* or *Temporary Chairperson* (in cases where the *Mayor* and *Deputy Mayor* are absent from a *Council Meeting*), provided that a reference to the *Mayor* is a reference to the *Deputy Mayor* or to the *Temporary Chairperson*, as the case may be.
- 10.3. Subject to clause 10.2, the *Chief Executive Officer* must arrange an election as soon as possible after the office of *Deputy Mayor* becomes vacant.

PART C COUNCIL'S COMMON SEAL

Introductory Note: 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.

11. Council's Common Seal

- 11.1. The *Chief Executive Officer* must ensure the security of *Council's Common Seal* at all times.
- 11.2. The affixing of *Council's Common Seal* to any document must be attested to by the signatures of:
 - 11.2.1. the *Mayor* and the *Chief Executive Officer*, or
 - 11.2.2. in the absence of the *Mayor*, by a *Councillor* and the *Chief Executive Officer* or any other member of *Council* staff authorised by *Council*.
- 11.3. A person must not use the *Common Seal* or any device resembling the *Common Seal* without the authority of *Council*.

Penalty: 5 *Penalty Units*

PART D COUNCIL'S OFFICE HOLDERS

12. Appointment of Councillors to Advisory Committees, Special Committees and boards

At least by the last *Council Meeting* of the calendar year, the *Council* must resolve to:

- 12.1. allocate *Councillors* to nominated *Advisory Committees*, *Special Committees* or board positions; and
- 12.2. remove *Councillors* from *Advisory Committees*, *Special Committees* or board positions.
- 12.3. Notwithstanding clause 12.1, *Council* may, by resolution, allocate *Councillors* to, and remove *Councillors* from, nominated *Advisory Committees*, *Special Committees* and board positions at any other time.

PART E MEETINGS PROCEDURE

Introductory Note: This Part is divided into a number of divisions. Each division addresses a distinct aspect of the holding of a *Council Meeting*. Collectively the divisions describe how and when a *Council Meeting* is convened, when and how business may be transacted at a *Council Meeting* and the particular circumstances of *Special Committee Meetings*.

DIVISION 1 - NOTICES OF MEETINGS AND DELIVERY OF AGENDAS

13. Dates and times of Meetings

- 13.1. *Council* must fix the date, time and place of all *Ordinary Meetings*.
- 13.2. *Council* may from time to time fix a date, time and place of *Special Committee Meeting's*.

14. Council May Alter Ordinary Meeting Dates

- 14.1. *Council* may from time to time change the date, time and place of any *Ordinary Meeting* which has been fixed and must provide reasonable notice of the change to the public.

15. Special Meetings

- 15.1. A notice of a *Special Meeting* must be delivered to every *Councillor* at least 2 days before the *Special Meeting*. A period less than two (2) days may, however, be justified if exceptional circumstances exist.
- 15.2. 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*.

16. Notice of Meeting to the Public

- 16.1. Seven (7) days-notice of a *Council Meeting* must be given to the public by advertising on the *Council Website* and in a local Newspaper generally circulating within the municipality unless time does not permit.
- 16.2. Advertising can be done as a schedule of *Meetings* either annually or at various times throughout the year, or just prior to each *Meeting* unless extraordinary circumstances exist
- 16.3. Reasonable notice of *Council Meetings* is considered to be a least 2 days before a *Meeting*.

17. Notice of Meeting to Councillors

- 17.1. A notice of a *Meeting* must state the date, time and place of the *Meeting* and the business to be dealt with, incorporating or accompanied by an *Agenda*; and must be delivered (whether personally, by facsimile, email or otherwise) or made available electronically to every *Councillor* as early as practicable; or at least 2 days before the *Meeting*.
- 17.2. Subject to any resolution of *Council*, the *Chief Executive Officer* will determine the method of delivery to be used under clause 17.1.
- 17.3. An *Agenda* of an *Ordinary Meeting* must be provided to the public at least 2 days before the *Ordinary Meeting*.

DIVISION 2 – QUORUMS

18. Inability to gain a quorum

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

18.1. those *Councillors* present; or

18.2. if there are no *Councillors* present, the *Chief Executive Officer*, or,

18.3. in the absence of the *Chief Executive Officer*, an *Authorised Officer*;

must adjourn the *Council Meeting* for a period within four (4) weeks from the date of the adjournment.

19. Inability to maintain a quorum

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

19.1. those *Councillors* present; or

19.2. if there are no *Councillors* present, the *Chief Executive Officer*, or,

19.3. in the absence of the *Chief Executive Officer*, an *Authorised Officer*;

must adjourn the *Council Meeting* for a period not exceeding seven (7) days from the date of the adjournment.

20. 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 of *Councillors*, the *Chief Executive Officer*, or, in his or her absence, his or her delegate, must adjourn the *Agenda* item or *Council Meeting* for a length of time sufficient to enable dispensation for the affected *Councillors* to be obtained from the Minister administering the *Act*.

21. Adjournment

The *Chief Executive Officer* must provide *Written* notice of an adjournment under clause 18, 19 or 20, however where this is not practicable because time does not permit that to occur, then, provided every reasonable attempt is made to contact every *Councillor*; notice by telephone, facsimile, email, in person or by some other means is sufficient.

22. Adjourned meetings

22.1. *Council* may adjourn any *Council Meeting*.

22.2. The *Chief Executive Officer*, or his or her delegate, must give notice to each *Councillor* of the date, time and place to which the *Council Meeting* stands adjourned and of the business remaining to be considered.

DIVISION 3 – CONDUCT AND BUSINESS OF MEETINGS

23. Time limits for Council Meetings

- 23.1. A *Council Meeting* must start within 30 minutes of the advertised start time.
- 23.2. A *Council Meeting* will not continue after 11.00 pm unless a *Majority* of *Councillors* present vote in favour of its continuance. In the absence of such continuance, a *Council Meeting* must stand adjourned to a time, date and place announced by the *Chairperson* immediately prior to the *Meeting* standing adjourned.

24. The order of business

The order of business at any *Council Meeting* is to be determined by the *Chief Executive Officer* so as to facilitate and maintain open, efficient and effective processes of government.

25. Change to order of business

Once an *Agenda* has been sent to *Councillors*, the order of business for that *Council Meeting* may only be altered by a resolution of the *Council*. This includes a request for an item to be brought forward.

26. Chairperson

The *Mayor* must preside at all *Council Meetings* at which he or she is present, in the role of *Chairperson*.

27. Absence of Chairperson

- 27.1. In the absence of the *Mayor*, the *Deputy Mayor* (if one is elected) must preside at any *Council Meeting* at which he or she is present, in the role of *Chairperson*.
- 27.2. In the event that both the *Mayor* and *Deputy Mayor* are absent, or a *Deputy Mayor* has not been elected, *Council* must elect a temporary *Chairperson* to preside at that *Council Meeting*.

28. Leave of Absence

- 28.1. If a *Councillor* is absent from a *Council Meeting*, the *Councillor* should request a *Leave of Absence* at a prior *Council Meeting*.
- 28.2. If this is not practicable, the *Councillor* must give the *Chief Executive Officer* notice of an apology prior to the *Council Meeting*.
- 28.3. If a *Councillor* leaves a *Council Meeting*, the *Councillor* must request permission from the *Chairperson* before leaving the *Chamber*.
- 28.4. Unless there is an emergency, or otherwise in accordance with clause 28.6 of this Local Law, a *Leave of Absence* requested during a *Council Meeting* will only be granted at the end of a motion.
- 28.5. Unless there is an emergency, or otherwise in accordance with clause 28.6 of this Local Law, a *Leave of absence* must not be requested or granted during a debate.
- 28.6. The *Chairperson* may call a comfort break at any time during a *Meeting* on a request from a *Councillor*.

29. Urgent Business

- 29.1. Subject to clause 29.2, *Urgent Business* may be considered at any Ordinary Meeting.
- 29.2. *Urgent Business* can only be admitted by resolution of *Council* and only then if it:
- 29.2.1. relates to or arises out of a matter which has arisen since distribution of the *Agenda*; or
 - 29.2.2. cannot safely or reasonably be deferred until the next *Ordinary Meeting*.
- 29.3. Notwithstanding anything to the contrary in this Local Law, a *Councillor* (with the agreement of the *Meeting*) may only submit or propose an item of *Urgent Business* if the matter relates to business that does not:
- 29.3.1. substantially affect the levels of *Council* service;
 - 29.3.2. commit *Council* to significant expenditure not included in the adopted budget;
 - 29.3.3. establish or amend *Council* Policy;
 - 29.3.4. commit *Council* to any contractual arrangement;
 - 29.3.5. require, pursuant to any other policy determined by *Council* from time to time, the giving of prior notice; and
 - 29.3.6. the proposed motion(s) is *In Writing* and given to the *Chairperson* who must seek a resolution of approval from *Council* to proceed at the particular *Meeting*.
- 29.4. A *Councillor* proposing that a matter be admitted as *Urgent Business* must lodge it *In Writing* with the *Chief Executive Officer* no later than 30 minutes prior to commencement of the *Meeting*.
- 29.5. The *Chief Executive Officer* may identify and determine a matter appropriate for *Council* to consider admitting as *Urgent Business* and will advise the *Mayor* as soon as practical.

DIVISION 4 – MOTIONS AND DEBATE

Explanatory Note: Councillors may put forward a motion which is different to an officer's recommendation on an item included in the *Agenda*. The motion, if adopted, becomes the actual decision (or resolution) of the *Council*.

30. Councillors may propose Notices of Motion

Councillors may propose an issue to be listed on the *Agenda* by lodging a *Notice of Motion* in accordance with the procedures outlined in this Division.

31. Notices of Motion

- 31.1. Prior to a *Council Meeting*, *Councillors* wanting to include a matter on the *Agenda*, must complete a *Notice of Motion* form.
- 31.2. A *Notice of Motion* form must be signed by the *Councillor*, and be lodged with the *Chief Executive Officer* (whether personally, by facsimile, email or otherwise) by 4pm the Thursday before the *Council Meeting* so as to allow sufficient time for him or her to give each other *Councillor* notice of such *Notice of Motion*; and to allow sufficient time for the *Notice of Motion* to be put in the *Agenda* for the next *Council Meeting*. If a *Notice of*

Motion form is received after that time, it must, unless withdrawn, be included in the *Agenda* for the following *Council Meeting*.

- 31.3. A *Notice of Motion* may be withdrawn by the *Councillor* who lodged it by a request *In Writing* received (whether personally, by facsimile, email or otherwise) prior to the publication of the *Agenda* for which the *Notice of Motion* was intended. Otherwise, the item must be dealt with at a *Council Meeting*.
- 31.4. The *Chief Executive Officer* must reject any *Notice of Motion* which:
 - 31.4.1. is too vague;
 - 31.4.2. is identical or substantially similar to a *Notice of Motion* or a Rescission Motion that has been considered by the *Council* and lost in the preceding six (6) months;
 - 31.4.3. is defamatory;
 - 31.4.4. may be prejudicial to any person or *Council*;
 - 31.4.5. is objectionable in language or nature;
 - 31.4.6. is outside the powers of *Council*;
 - 31.4.7. is a *Notice of Motion* submitted during the *Caretaker Period*; or
 - 31.4.8. is a matter subject to a *Council* decision making process which has commenced but is not yet complete.
- 31.5. If the *Chief Executive Officer* rejects a *Notice of Motion* under sub-clause 31.4, he or she will inform the *Councillor* who lodged the *Notice of Motion* of that rejection and the reasons for it. The *Councillor* will be provided with 24 hours to lodge a revised *Notice of Motion* provided that the *Meeting* at which the *Notice of Motion* is to be considered is more than 24 hours from the time of rejection.
- 31.6. The *Chief Executive Officer* may reject and refer any *Notice of Motion* to the *Council's Operational service request process* if it relates to a matter that he or she determines is more appropriately addressed that way.
- 31.7. Subject to sub-clauses 31.8 and 31.9 a *Notice of Motion* must call for a *Council* report if the *Notice of Motion*:
 - 31.7.1. substantially affects the level of *Council* services;
 - 31.7.2. commits the *Council* to expenditure in excess of \$20,000 and that has not been included in the adopted budget;
 - 31.7.3. establishes or amends a *Council* policy; or
 - 31.7.4. commits the *Council* to any contractual arrangement,as determined by the *Chief Executive Officer*.
- 31.8. Where a *Notice of Motion* is likely to commit *Council* to significant expenditure not included in the adopted budget then the *Notice of Motion* must call for a report for *Council's* consideration and public submission process if applicable.

- 31.9. The *Chief Executive Officer* may designate a *Notice of Motion* to be confidential in accordance with Section 89(2) of the *Act*, in which case the *Notice of Motion* will be confidential unless the *Council* resolves otherwise.
- 31.10. The full text of any *Notice of Motion* accepted by the *Chief Executive Officer* must be included in the material accompanying the *Agenda*.
- 31.11. The *Chief Executive Officer* must arrange for a formal report to be prepared and presented to the *Council* for the purposes of sub-clause 31.7. Where practicable the report should be presented to the next *Council Meeting*.
- 31.12. 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.
- 31.13. Except by leave of *Council*, each *Notice of Motion* must be considered in the order in which they were received by the *Chief Executive Officer*.
- 31.14. If a *Councillor* who has given a *Notice of Motion* is absent from the *Council Meeting* or fails to move the motion when called upon by the *Chairperson*, any other *Councillor* may move the motion.
- 31.15. If a *Councillor* proposing the motion wishes to amend the *Notice of Motion*, he or she may do so by seeking leave of the *Council* to amend the *Notice of Motion* prior to it being seconded.
- 31.16. The *Chairperson*, having lodged a *Notice of Motion* in accordance with this clause, must vacate the Chair of the *Council Meeting* to move the *Notice of Motion*; and the Deputy Mayor or, in the absence of the Deputy Mayor, temporary *Chairperson* appointed by the *Council*, will take the Chair for the duration of consideration of the item.
- 31.17. If a *Notice of Motion* is not moved at the *Council Meeting* at which it is listed, it lapses.

32. Introducing a motion at a Council Meeting

Before a motion at a *Council Meeting* is moved, a *Councillor* may introduce it by indicating, in not more than two (2) minutes:

- 32.1. its intent; or
- 32.2. the desired outcome, if it is passed.

33. Unacceptable motions at a Council Meeting

Any motion which is determined by the *Chairperson* at a *Council Meeting* to be:

- 33.1. defamatory;
- 33.2. objectionable in language or nature;
- 33.3. vague or unclear in intention;
- 33.4. outside the powers of *Council*; or
- 33.5. irrelevant to the item of business on the *Agenda* and has not been admitted as urgent or general business, or
- 33.6. purports to be an amendment but is not; must not be accepted by the *Chairperson*.

34. Moving a motion or an amendment to a motion at a Council Meeting

Provided clause 33 does not apply, the procedure for moving any motion or amendment to a motion is:

- 34.1. the mover must state the motion and be given an opportunity to introduce the motion in accordance with clause 32;
- 34.2. the motion must be seconded by a *Councillor* other than the mover;
- 34.3. if a motion is not seconded, the motion lapses;
- 34.4. if a motion or an amendment is moved and seconded the *Chairperson* must ask:
- 34.5. "Is the motion or amendment opposed?"
- 34.6. if a *Councillor* indicates opposition, then the *Chairperson* must call on the mover to address the *Council Meeting*;
- 34.7. after the mover has addressed the *Meeting*, the seconder may address the *Council Meeting*, or the seconder may reserve his or her right to speak later in the debate.
- 34.8. after the seconder has addressed the *Council Meeting* (or after the mover has addressed the *Council Meeting* if the seconder does not address the *Council Meeting*) the *Chairperson* must invite debate by calling on any *Councillor* who wishes to speak to the motion, providing an opportunity to alternate between those wishing to speak against the motion and those wishing to speak for the motion; and
- 34.9. if, after the mover has addressed the *Council Meeting*, the *Chairperson* has invited debate and no *Councillor* speaks to the motion, then the *Chairperson* must put the motion to the vote.

35. Right of reply

- 35.1. The mover of a motion has a right of reply to matters raised during debate.
- 35.2. The mover of a motion loses his or her right of reply if an amendment to the motion is carried.
- 35.3. The mover of an amendment to a motion does not have a right of reply.
- 35.4. A *Councillor* exercising a right of reply must not introduce any new matter.
- 35.5. After the right of reply has been taken, the motion must immediately be put to the vote without any further discussion or debate.

36. Moving an amendment to a motion

- 36.1. Subject to clause 36.2, 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.
- 36.2. A motion to confirm a previous resolution of *Council* cannot be amended.

37. Agreed Alterations to a Motion or Amendment

- 37.1. A motion having been moved and seconded may, with the consent of the mover and seconder, be amended by the minute taker by leaving out, inserting or adding words which must be relevant to the motion and framed so as to complement it as an intelligible and consistent whole, provided that the amendment is made before the motion is voted on.
- 37.2. With the leave of the *Chairperson*, both the mover and seconder of a motion may agree to an alteration to the original motion proposed by any other *Councillor*. This does not necessitate the recording of an amendment into the *Minutes* of the *Meeting* as the alteration would then form part of the substantive motion.
- 37.3. A *Councillor* may request at any time before a vote is taken on a motion or amendment which is in two or more parts, that each part be put to the vote separately. The *Chairperson* may agree with or refuse such a request or can decide to put any motion to the vote in separate parts.

38. Who may propose an Amendment

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

39. Who may Debate an Amendment

A *Councillor* may address the *Meeting* once (1) on any amendment, whether or not they have spoken to the original motion, but their debate must be confined to the terms of the amendment.

40. How many amendments may be proposed

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

41. An amendment to a motion once carried

- 41.1. If the amendment to a motion is carried, the motion as amended then becomes the motion before the *Council Meeting*.
- 41.2. the mover and seconder of the amendment are deemed to be the mover and seconder of the motion before the *Meeting*.

42. An amendment to a motion if lost

- 42.1. If the amendment to motion is lost, the debate can resume from where it left off.
- 42.2. A *Councillor* who has already spoken on the original motion must not speak again unless to continue the debate as if the amended motion had not been put.

43. Withdrawal of motions

Before any motion is put to the vote, it may be withdrawn by the mover with agreement from seconder or by resolution of *Council*.

44. Chairperson may allow motions to be moved in a block

The *Chairperson* may, in his or her discretion, allow or request *Councillors* to move “like items” in a block.

45. Priority of address

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

46. Motions in writing

- 46.1. All motions, except procedural motions, should be *In Writing*.
- 46.2. *Council* may adjourn the *Council Meeting* while the motion is being *Written* or *Council* may defer the matter until the motion has been *Written*, allowing the *Council Meeting* to proceed uninterrupted.
- 46.3. The *Chairperson* may request the person taking the *Minutes* of the *Council Meeting* to read the motion or amendment to the *Council Meeting* before the vote is taken.

47. Debate must be relevant to the question

- 47.1. Debate must always be relevant to the question before the *Chairperson*, and, if not, the *Chairperson* must request the speaker to confine debate to the question.
- 47.2. If after being requested to confine debate to the question before the *Chairperson*, the speaker continues to debate irrelevant matters, the *Chairperson* may direct the speaker to be seated and not speak further in respect of the question then before the *Chairperson*.
- 47.3. A speaker to whom a direction has been given under clause 47.2 must comply with that direction.

48. Speaking times

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

- 48.1. the mover of a motion or an amendment: five (5) minutes;
- 48.2. seconder of the motion or an amendment: three (3) minutes;
- 48.3. any other *Councillor*: three (3) minutes; and
- 48.4. subject to clause 35, the mover of a motion exercising a right of reply: two (2) minutes.

49. Addressing the Council Meeting

If the *Chairperson* so determines:

- 49.1. any person addressing the *Chairperson* must refer to the *Chairperson* as: Madam Mayor;

or Mr Mayor;

or Madam Chair;

or Mr Chair;

as the case may be;

49.2. all *Councillors*, other than the *Mayor*, must be addressed as

Cr _____(name).

49.3. all members of *Council* staff, must be addressed as

Mr, Mrs or Ms _____(name) as appropriate or by their official title.

50. Foreshadowing motions

50.1. 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 *Council Meeting*, but this does not extend any special right to the foreshadowed motion.

50.2. A motion foreshadowed may be prefaced with a statement that in the event of a particular motion before the *Chairperson* being resolved in a certain way, a *Councillor* intends to move an alternative or additional motion.

50.3. A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the *Meeting*.

50.4. The *Chief Executive Officer* or person taking the *Minutes* of the *Meeting* will not record a foreshadowed motion in the *Minutes* until the foreshadowed motion is formally moved.

51. Right to ask questions

51.1. Subject to clause 51.3, a *Councillor* may, at any time when no other *Councillor* is speaking, ask any question concerning or arising out of the motion or amendment before the *Chairperson*.

51.2. Questions are not to be asked between moving and seconding a motion except to seek clarification on the motion moved.

51.3. The *Chairperson* has the right to disallow any question that does not specifically relate to the motion or amendment directly before it and to disallow any question should they, in the reasonable opinion of the *Chairperson*, be considered irrelevant.

51.4. The *Chairperson* has the right to limit questions and direct that debate be commenced or resumed.

DIVISION 5 – PROCEDURAL MOTIONS

52. Procedural motions

52.1. Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the *Chairperson*.

52.2. Procedural motions require a seconder.

52.3. Notwithstanding any other provision in this Local Law, procedural motions must be dealt with in accordance with the procedures set out in the Procedural Motions Table in this clause 52.

PROCEDURAL MOTIONS TABLE

Procedural motion	Form	Mover and seconder	When motion prohibited	Effect if carried	Effect if lost	Debate permitted on motion
1. Adjournment of debate to later hour and/or date	That this matter be adjourned to *am/pm and/or *date	Any <i>Councillor</i> who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	(a) During the election of a <i>Chairperson</i> ; (b) When another <i>Councillor</i> is speaking;	Motion and any 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 <i>Councillor</i> who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	(a) During the election of a <i>Chairperson</i> ; (b) When another <i>Councillor</i> is speaking; (c) When the matter is one in respect of which a call of the <i>Council</i> has been made in accordance with section 85 of the <i>Act</i> ; (d) When a 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 <i>Council Meeting</i> if on the <i>Agenda</i>	Debate continues unaffected	Yes

Procedural motion	Form	Mover and seconder	When motion prohibited	Effect if carried	Effect if lost	Debate permitted on motion
3. The closure	That the motion be now put	Any <i>Councillor</i> who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	During nominations for <i>Chairperson</i>	Motion or amendment in respect of which the closure is carried is put to the vote immediately without further debate, subject to any <i>Councillor</i> exercising his or her right to ask any question concerning or arising out of the motion	Debate continues unaffected	No
4. Laying question on the table	That the question lie on the table	Any <i>Councillor</i> who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion	(a) During the election of a <i>Chairperson</i> ; (b) During a <i>Council Meeting</i> which is a call of the <i>Council</i> has been made in accordance with section 85 of the <i>Act</i> ; (c) When a motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement	Motion and amendment is not further discussed or voted on until: (a) <i>Council</i> resolves to take the question from the table at the same <i>Council Meeting</i> ; or (b) The matter is placed on a subsequent <i>Agenda</i> and <i>Council</i> resolves to take the question from table	Debate continues unaffected	No

Procedural motion	Form	Mover and seconder	When motion prohibited	Effect if carried	Effect if lost	Debate permitted on motion
6. Proceeding to next business	<p>That the <i>Meeting</i> proceed to the next business:</p> <p>Note: This motion:</p> <p>(a) may not be amended;</p> <p>(b) may not be debated; and</p> <p>(c) must be put to the vote as soon as seconded</p>	Any <i>Councillor</i> who has not moved or seconded the substantive motion or otherwise spoken to the substantive motion.	<p>(a) During the election of a <i>Chairperson</i>;</p> <p>(b) When another <i>Councillor</i> is speaking;</p> <p>(c) When the matter is one in respect of which a call of the <i>Council</i> has been made in accordance with section 85 of the <i>Act</i>; or</p> <p>(d) When a motion would have the effect of causing <i>Council</i> to be in breach of a legislative requirement.</p>	<p>If carried in respect of:</p> <p>(a) An amendment - <i>Council</i> considers the motion without reference to the amendment;</p> <p>(b) A motion – no vote or further discussion on the motion until it is placed on an <i>Agenda</i> for a later <i>Council Meeting</i></p>	Debate continues unaffected	No
7. <i>Repetitious Motion</i>	That the motion is a <i>Repetitious Motion</i>	A <i>Councillor</i> who has not spoken to the motion or any amendment of it	<p>(a) During the election of a <i>Chairperson</i>;</p> <p>(b) When another <i>Councillor</i> is speaking;</p> <p>(c) When the matter is one in respect of which a call of the <i>Council</i> has been made;</p>	<p>(a) No vote or further discussion on the motion unless it is placed on an <i>Agenda</i> for a later <i>Meeting</i>;</p> <p>(b) Proceed to next business</p>	Debate continues unaffected	Yes

Procedural motion	Form	Mover and seconder	When motion prohibited	Effect if carried	Effect if lost	Debate permitted on motion
8. Alter the order of business	That the item listed as ## on the <i>Agenda</i> be considered before/after the item listed as item ##.	Any <i>Councillor</i> (including the <i>Mayor/Chairperson</i>)	During debate	Alters the order of business for the <i>Meeting</i> .	Items are considered in the order as listed in the <i>Agenda</i> .	No
9. <i>Suspension of Standing Orders</i>	That <i>Standing Orders</i> be suspended to ## (reason must be provided)	Any <i>Councillor</i> (including the <i>Mayor/Chairperson</i>)	Between a Motion being moved and seconded	The rules of the <i>Meeting</i> are temporarily suspended for the specific reason given in the motion.	<i>Meeting</i> continues unaffected.	No and no debate or decision on any matter. Resolution to resume <i>Standing Orders</i> is the only decision permissible.
10. Resumption of <i>Standing Orders</i>	That the <i>Standing Orders</i> be resumed.	Any <i>Councillor</i> (including the <i>Mayor/Chairperson</i>)	When <i>Standing Orders</i> have not been suspended.	The temporary suspension of the rules of the <i>Meeting</i> is removed.	The <i>Meeting</i> cannot continue.	No
11. Consideration of confidential matter(s)	That, in accordance with sections 89(2) and 77(2) of the <i>Act</i> , the <i>Meeting</i> be closed to members of the public for the consideration of item ## which has been designated confidential on the grounds it relates to ## (insert grounds from s.77(2))	Any <i>Councillor</i>	N/A	The <i>Meeting</i> is closed to members of the public.	The <i>Meeting</i> continues to be open to the public.	Yes

Procedural motion	Form	Mover and seconder	When motion prohibited	Effect if carried	Effect if lost	Debate permitted on motion
12. Reopen the <i>Meeting</i> .	That the <i>Meeting</i> be reopened to members of the public.	Any <i>Councillor</i>	N/A	The <i>Meeting</i> is reopened to members of the public.	<i>Meeting</i> remains closed to members of the public.	No
11. Consideration of confidential matter(s)	That, in accordance with sections 89(2) and 77(2) of the <i>Act</i> , the <i>Meeting</i> be closed to members of the public for the consideration of item ## which has been designated confidential on the grounds it relates to ## (insert grounds from s.77(2))	Any <i>Councillor</i>	N/A	The <i>Meeting</i> is closed to members of the public.	The <i>Meeting</i> continues to be open to the public.	Yes
12. Reopen the <i>Meeting</i> .	That the <i>Meeting</i> be reopened to members of the public.	Any <i>Councillor</i>	N/A	The <i>Meeting</i> is reopened to members of the public.	<i>Meeting</i> remains closed to members of the public.	No

DIVISION 6 – RESCISSION MOTIONS

53. Notice of Rescission or Amendment

- 53.1. A previous resolution of *Council* may be rescinded or amended by:
- 53.1.1. a report included on the *Agenda* for a *Council Meeting*; or
 - 53.1.2. a *Notice of Rescission* or Amendment proposed by a *Councillor* in accordance with this clause 53.
- 53.2. *Councillor* may propose a *Notice of Rescission* or Amendment provided:
- 53.2.1. the resolution proposed to be rescinded or amended has not been acted on; and
 - 53.2.2. the *Notice of Rescission* or Amendment is received *In Writing* by the *Chief Executive Officer* in accordance with clause 31, setting out:
 - 53.2.3. the resolution to be rescinded or amended; and
 - 53.2.4. the *Meeting* and date when the resolution was carried.

Explanatory Note: It should be remembered that a Notice of Rescission or Amendment is a form of Notice of Motion. Accordingly, all provisions in this Local Law regulating Notices of Motion equally apply to Notices of Rescission.

- 53.3. The *Chief Executive Officer*, or a member of *Council* staff with responsibility for it, may implement a resolution at any time after the close of the *Meeting* at which it was made. A resolution will be deemed to have been acted on if:
- 53.3.1. its contents have, or substance has, been formally communicated to a person whose interests are materially affected by it; or
 - 53.3.2. a statutory process has been commenced;
- so as to vest enforceable rights in or obligations on *Council* or any other person.
- 53.4. The *Chief Executive Officer* or an appropriate member of *Council* staff must defer implementing a resolution which:
- 53.4.1. has not been acted on; and
 - 53.4.2. is the subject of a *Notice of Rescission* or Amendment which has been delivered to the *Chief Executive Officer* in accordance with clause 53.2.2;
- unless deferring implementation of the resolution would have the effect of depriving the resolution of efficacy.

Explanatory Note: 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 53.4 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.

54. If lost

If a Notice of Rescission or Amendment is lost, a similar motion may not be put before *Council* for at least six (6) months from the date it was last lost, unless *Council* resolves that the Notice of Rescission or Amendment be re-listed at a future *Council Meeting*.

55. If not moved

If a Notice of Rescission or Amendment is not moved at the *Council Meeting* at which it is listed, it lapses.

56. May be moved by any Councillor

A Notice of Rescission or Amendment listed on an *Agenda* may be moved by any *Councillor* present but may not be amended.

57. When not required

A Notice of Rescission or Amendment is not required where *Council* wishes to change policy.

DIVISION 7 – POINTS OF ORDER

Explanatory Note: A point of order is taken when a Councillor officially draws the attention of the *Chairperson* of a *Council Meeting* to an alleged irregularity in the proceedings.

58. Points of Order

58.1. A point of order may be raised in relation to:

- 58.1.1. an act that is contrary to this Local Law;
- 58.1.2. an act of disorder or conduct in contravention of the *Councillor Code of Conduct*;
- 58.1.3. a question of procedure under this Local Law;
- 58.1.4. an act or conduct that is frivolous, vexatious or constitutes improper conduct;
- 58.1.5. any act of disorder; or
- 58.1.6. any act of relevance.

59. Procedure for point of order

- 59.1.1. A *Councillor* raising a point of order must nominate the ground under sub-clause 58.1 relied upon to support the Point of Order being taken.
- 59.1.2. When the Point of Order is raised, the *Councillor* who is speaking must stop and remain silent until the Point of Order is decided upon, unless otherwise directed by the *Chairperson*.
- 59.1.3. The *Chairperson* may request a *Councillor* provide an explanation in respect to the Point of Order raised.

60. Chairperson to decide

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

61. Chairperson may adjourn to consider

61.1. The *Chairperson* may adjourn the *Council Meeting* to consider a point of order, but otherwise must rule on it as soon as it is raised.

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

62. Dissent from Chairperson's ruling

62.1. A *Councillor* may move that the *Council Meeting* disagree with the *Chairperson's* ruling on a point of order, by moving:

"That the *Chairperson's* ruling [setting out that ruling or part of that ruling] be dissented from".

62.2. When a motion in accordance with this clause is moved and seconded, the *Chairperson* must leave the Chair; the *Deputy Mayor*, or temporary *Chairperson* elected by the *Meeting* must take his or her place.

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

62.4. The temporary *Chairperson* must put the motion in the following form:

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

62.5. If the vote is in the negative, the *Chairperson* resumes the Chair and the *Council Meeting* proceeds.

62.6. If the vote is in the affirmative, the *Chairperson* must then resume the Chair, reverse or vary (as the case may be) his or her previous ruling and proceed.

62.7. 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 *Council Meeting*.

63. Contradiction or Opinion

A point of order may not be raised to express a mere difference of opinion or to contradict a speaker.

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

DIVISION 8 – PUBLIC QUESTION TIME AND PUBLIC REPRESENTATIONS

64. Submissions of Questions

- 64.1. Unless *Council* resolves to the contrary, there shall be a public question time at every *Ordinary Meeting* to allow members of the public to submit questions to *Council*.
- 64.2. Sub-clause 64.1 does not apply during any period when a *Meeting* is closed to members of the public in accordance with Section 89(2) of the *Act* or during a local government election *Caretaker Period*.
- 64.3. Unless *Council* resolves to the contrary, public question time will not exceed 30 minutes.
- 64.4. No person may submit:
 - 64.4.1. more than two (2) questions at any one (1) *Ordinary Meeting*.
- 64.5. As to the form of questions:
 - 64.5.1. subject to clause 64.5.4, questions must be *In Writing* and in English;
 - 64.5.2. questions must be 75 words or less and not include a preamble, other additional material, or multiple parts;
 - 64.5.3. questions should be submitted;
 - 64.5.3.1. during normal office hours at the *Council* Offices at 25 Armstrong Street South, Ballarat; or
 - 64.5.3.2. on *Council's* website.
 - 64.5.4. considering the general rights of citizens to take part in the conduct of *Council* affairs, if providing a question *In Writing* and or in English unreasonably prevents or hinders participation in public question time, assistance with submitting questions is available from *Council*, via interpreter service if required.
- 64.6. As to the deadline for questions:
 - 64.6.1. all questions received by *Council* by 10:00am on the day of the *Ordinary Meeting* will receive a verbal response if possible at the *Meeting*; or otherwise will be taken on notice for a *Written* response to be provided;
 - 64.6.2. questions not received by 10.00am on the day of the *Meeting* will receive a verbal response if possible, but will otherwise be taken on notice for a *Written* response to be provided;
 - 64.6.3. questions must be submitted:
 - 64.6.3.1. by mail to *Council's* advertised postal address; or
 - 64.6.3.2. by email to *Council's* advertised email address; or
 - 64.6.3.3. in person during normal office hours at the *Council* Offices at 25 Armstrong Street South, Ballarat.
 - 64.6.3.4. after normal office hours on the day of the *Meeting* if submitted in person prior to the commencement of the *Ordinary Council Meeting* in the receptacle designated for such purpose.

64.6.4. may not be asked if the time allotted for public question time has expired.

65. Questions may be disallowed

- 65.1. Considering the general rights of citizens to take part in the conduct of *Council* affairs, a question may be disallowed by the *Chairperson* if the *Chairperson* determines that it:
- 65.1.1. is not submitted in accordance with this Division;
 - 65.1.2. relates to a matter outside the duties, functions and powers of *Council*;
 - 65.1.3. is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
 - 65.1.4. deals with a subject matter already answered;
 - 65.1.5. is aimed at embarrassing a *Councillor* or a member of *Council* staff;
 - 65.1.6. relates to any matter in respect of which *Council* may close the *Meeting* to members of the public under s 89(2) of the *Act*; or
 - 65.1.7. would require, on the advice of the *Chief Executive Officer*, an unreasonable diversion of *Council* resources to prepare a response for public question time.
- 65.2. If a question is not disallowed under clause 65.1, the *Chairperson* may otherwise disallow a question if:
- 65.2.1. it does not relate to a matter or matters on the *Agenda* for the current *Ordinary Meeting*; and/or
 - 65.2.2. before submitting a question for public question time, the person asking the same has previously:
 - 65.2.2.1. put the question *In Writing* to a *Councillor* or a member of *Council* staff; and
 - 65.2.2.2. received a *Written* response to the question from a *Councillor* or a member of *Council* staff.
- 65.3. The *Chairperson* or *Chief Executive Officer* or his or her delegate must read to the *Meeting* the name of the person who has submitted a permitted question.
- 65.4. The *Chief Executive Officer* or his or her delegate must read the text of the question and the *Chairperson* may then direct that the question be answered by the *Chief Executive Officer* or a nominated *Officer*;
- 65.5. All questions and answers must be as brief as possible. Further questions or debate on the response shall not be allowed.
- 65.6. Like questions may be grouped together and a single answer provided.
- 65.7. A *Councillor* or the *Chief Executive Officer* may require a question to be put on notice. If a question is put on notice, the answer to it must be recorded in the *Minutes* of *Council*. A *Written* copy of the answer must be sent to the person who asked the question. *Minutes* will reflect responses until the matter is completed. It is expected that responses to questions will be within *Council* service levels for correspondence.

- 65.8. A *Councillor* or the *Chief Executive Officer* may advise *Council* that it is his or her opinion that the reply to a question should be given in a *Meeting* closed to members of the public. The *Councillor* or *Chief Executive Officer* (as the case may be) must state briefly the reason why the reply should be so given and, unless *Council* resolves to the contrary, the reply to such question must be so given.

DIVISION 9 – PETITIONS AND JOINT LETTERS

Explanatory Note: Petitions are ways in which the community can ensure that their views are heard by *Council*. In order to ensure that a petition is valid and capable of being accepted by *Council*, the procedures set out in this division must be adhered to.

66. Petitions and Joint Letters

- 66.1. A petition or joint letter received by the *Council* or an individual *Councillor* must be lodged with the *Chief Executive Officer* at least five (5) days before *Council Meeting* to ensure sufficient time to include the item in the *Agenda*.
- 66.2. A petition must be on the specified form published by *Council* from time to time and must:
- 66.2.1. be in legible and permanent writing;
 - 66.2.2. have the full name, address and signature of all individual signatories;
 - 66.2.3. not be defamatory, indecent, abusive or objectionable in language or content;
 - 66.2.4. not relate to matters beyond the powers of the *Council*;
 - 66.2.5. include the whole of the request of the petitioners or signatories on each page; and
 - 66.2.6. consist of single-sided pieces of paper and must not be pasted, stapled, pinned or otherwise affixed to any other piece of paper.
- 66.3. The *Chief Executive Officer* must arrange for petitions to be submitted to the next practicable *Ordinary Meeting* following their receipt.
- 66.4. Only the petitioner's request and the number of signatories will be included in the *Agenda* for the *Council Meeting* at which it will be considered.
- 66.5. If a petition is addressed to an individual *Councillor*, and listed on the *Agenda*, that *Councillor* may read the petition out at the *Council Meeting* without speaking to it. Other petitions will be read by the *Chief Executive Officer* or his/her delegate.
- 66.6. Unless sub-clause 66.10 applies, the only motions that may be considered for any petitions are:
- 66.6.1. that the petition be received;
 - 66.6.2. that the petition be referred to the *Chief Executive Officer* for consideration and response; or
 - 66.6.3. that the petition be referred to the *Chief Executive Officer* for a report to a future *Council Meeting*.
- 66.7. If the petition relates to any item already on the *Agenda* for the *Council Meeting* at which the petition is submitted, the matter may be dealt with in conjunction with that *Agenda* item.

- 66.8. If the petition relates to an operational matter, the *Council* must refer it to the *Chief Executive Officer* for consideration.
- 66.9. If the petition relates to:
- 66.9.1. a planning matter which is the subject of a public notification process under the Planning and Environment Act 1987; or
 - 66.9.2. a statutory matter which is the subject of a public submission process under Section 223 of the *Act*,
- the petition will be treated as a joint submission in relation to the planning matter or statutory matter (as the case may be).
- 66.10. A petition may nominate a person to whom a reply must be sent, but if no person is nominated or is the obvious intended contact person, the *Council* may reply to the first signatory who appears on the petition.
- 66.11. Any petitions that do not comply with this Local Law:
- 66.11.1. can be referred to relevant *Councillors* by the *Chief Executive Officer* for their information;
 - 66.11.2. can be tabled as a joint letter at a *Council Meeting*; and
 - 66.11.3. unless sub-clause 66.10 applies, the only motion that may be considered is that the joint letter be received.
- 66.12. Nothing in this clause shall prevent the *Chief Executive Officer* from determining that an electronic or online petition will be submitted to a *Council Meeting* or the *Council* resolving to consider a petition as *Urgent Business* under clause 29.
- 66.13. Any person who fraudulently signs a petition or joint letter which is presented to the *Council* is guilty of an *Offence*.

Penalty: 10 *Penalty Units*

DIVISION 10 – DEPUTATIONS AND PRESENTATIONS

Explanatory Note: A delegation or lobby group is known as a deputation. If a deputation requests to be heard by *Council* on a certain topic the procedures set out in this division must be followed.

67. Deputations and Presentations

- 67.1. Deputations to be referred to *Mayor*.
- 67.2. A deputation wishing to be heard by *Council* may make a *Written* request to the *Chief Executive Officer* who must refer the request to the *Mayor*.
- 67.3. Consideration of request
- The *Mayor* may:
- 67.3.1. ask the *Chief Executive Officer* to include the deputation on the *Agenda* for a future *Council Meeting*; or

67.3.2. ask the *Chief Executive Officer* to include a request for a deputation on the *Agenda* for a future *Council Meeting*; or

67.3.3. in consultation with the *Chief Executive Officer*, decline the request.

67.4. CEO to determine *Councillor* Briefing referred to.

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

67.5. Summary of submissions

A deputation must lodge with the *Chief Executive Officer*, a *Written* submission detailing the subject matter of the deputation prior to the deputation addressing *Council*.

67.6. Limitations of time upon speakers

Council will not hear more than two (2) speakers on behalf of any deputation, and the *Chairperson* may set time limits on the length and address of each speaker for a period of 3 minutes.

67.7. Questions but no discussion permitted

Councillors and members of *Council* staff may question the deputation on matters raised by it for purposes of clarification; but no discussion will be allowed.

67.8. Matter to be determined at a subsequent *Ordinary Meeting*.

No motion must be allowed on any deputation until the next *Ordinary Meeting* after the deputation has been heard.

67.9. Prior *Meeting* with deputation

A deputation must meet with *Council's* appropriate department prior to addressing *Council* so that the procedures detailed in this Division can be discussed and explained.

DIVISION 11 - PUBLIC SUBMISSIONS UNDER THE LOCAL GOVERNMENT ACT 1989

68. Public Submissions under Section 223 of the Act

Where a person is given a right to make a submission under section 223 of the *Act* and requests to appear in person (or to be represented by a person specified in the submission) at a *Council Meeting* to be heard in support of the submission, the time limit for such hearing shall be 3 minutes, except that the *Chairperson* may, in his or her discretion, allow the hearing to exceed 3 minutes.

DIVISION 12 - VOTING

69. How a motion is determined

69.1. To determine a motion before a *Council Meeting*, the *Chairperson* must:

69.1.1. first call for those in favour of the motion;

69.1.2. then those opposed to the motion; and

69.1.3. if required, identify any *Councillor* who has abstained from voting, and then declare the result to the *Council Meeting*.

70. Casting vote

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

71. By show of hands

Unless *Council* resolves otherwise, voting on any matter is by show of hands.

72. Procedure for a division

- 72.1. Immediately after any question is put to a *Council Meeting* and before the next item of business has commenced, a *Councillor* may call for a division.
- 72.2. When a division is called for, the vote already taken must be treated as set aside and the division shall decide the question, motion or amendment.
- 72.3. When a division is called for, the *Chairperson* must:
 - 72.3.1. first ask each *Councillor* wishing to vote in the affirmative to raise a hand and upon such request being made, each *Councillor* wishing to vote in the affirmative must raise one (1) of his or her hands;
 - 72.3.1.1. the *Chairperson* must then state and the *Chief Executive Officer* or his or her delegate must record, the names of those *Councillors* voting in the affirmative; and
 - 72.3.2. then ask each *Councillor* wishing to vote in the negative to raise a hand and upon such request being made, each *Councillor* wishing to vote in the negative must raise one (1) of his or her hands;
 - 72.3.2.1. the *Chairperson* must then state and the *Chief Executive Officer* or his or her delegate must record, the names of those *Councillors* voting in the negative;
 - 72.3.2.2. the *Chief Executive Officer* or his or her delegate must record, the names of those *Councillors* who abstained from voting.

73. No discussion once declared

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

- 73.1. a *Councillor* requesting, before the next item of business is considered, that his or her opposition to a resolution be recorded in the *Minutes*;
- 73.2. foreshadowing a *Notice of Rescission* or Amendment where a resolution has just been made; and or a positive motion where a resolution has just been rescinded; or
- 73.3. foreshadowing a *Notice of Rescission* or Amendment, in which case what is foreshadowed must be noted in the *Minutes* of the *Council Meeting*.

Explanatory Note: For example, clause 73 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 81 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 81.2, to discussion about a positive motion where a resolution has just been rescinded.

DIVISION 13 – MINUTES

74. Keeping of minutes

- 74.1. The *Chief Executive Officer* (or other person authorised by the *Chief Executive Officer* to attend the *Council Meeting* and to take the *Minutes* of such *Meeting*) must keep *Minutes* of each *Council Meeting* and those *Minutes* must record:
- 74.1.1. the date, place, time and nature of the *Council Meeting*;
 - 74.1.2. the names of the *Councillors* present and the names of any *Councillors* who apologised in advance for their non-attendance;
 - 74.1.3. the names of the members of *Council* staff present;
 - 74.1.4. any disclosure of an interest or a conflict of interest made by a *Councillor*;
 - 74.1.5. arrivals and departures (including temporary departures) of *Councillors* during the course of the *Council Meeting*;
 - 74.1.6. each motion, amendment moved and foreshowed motions (including motions and amendments that lapse for the want of a seconder);
 - 74.1.7. the vote cast by each *Councillor* upon a division;
 - 74.1.8. the vote cast by any *Councillor* who has requested that his or her vote be recorded in the *Minutes*;
 - 74.1.9. questions upon notice;
 - 74.1.10. the failure of a quorum;
 - 74.1.11. any adjournment of the *Council Meeting* and the reasons for that adjournment; and
 - 74.1.12. the time at which *Standing Orders* were suspended and resumed.

75. Confirmation of minutes

At every *Council Meeting* the *Minutes* of the preceding *Council Meeting* must be dealt with as follows:

- 75.1. a copy of the *Minutes* must be delivered to each *Councillor* no later than 48 hours before the next *Council Meeting*;
- 75.2. if no *Councillor* indicates opposition, the *Minutes* must be declared to be confirmed;
- 75.3. if a *Councillor* indicates opposition to the *Minutes*:
 - 75.3.1. he or she must specify the item(s) to which he or she objects;
 - 75.3.2. the objected item(s) must be considered separately and in the order in which they appear in the *Minutes*;
 - 75.3.3. the *Councillor* objecting must move a motion clearly setting out the alternative wording to amend the *Minutes* without speaking to the motion; and;

75.3.4. the motion must then be open to debate and at the conclusion of debate, the *Chairperson* must put the motion to the vote;

75.4. a resolution of *Council* must confirm the *Minutes* and the *Minutes* must, if practicable, be signed by the *Chairperson* of the *Council Meeting* at which they have been confirmed.

76. 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.

77. Deferral of confirmation of minutes

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

78. Recording of meetings

78.1. If *Council* resolves that the proceedings of a *Council Meeting* be recorded, the *Chief Executive Officer* (or his or her delegate) may record on suitable recording equipment all proceedings of Ordinary or *Special Meetings* of *Council* except where the *Meeting* is closed to the public in accordance Section 89(2) of the *Act*.

78.2. Subject to clause 85.1, a person must not operate photographic, audio or video recording equipment or any other recording device at any *Council Meeting* without first obtaining the consent of *Council* or the *Chairperson* (as the case may be). Such consent may at any time during the course of such *Meeting* be revoked by *Council* or the *Chairperson* (as the case may be).

Penalty: 5 *Penalty Units*.

78.3. Where *Council* has identified that it will record such *Meetings*, *Visitors* will also be advised by appropriate venue signage that while care is taken through recording/filming to maintain a person's privacy as an attendee in the gallery, they may be recorded on audio/film.

79. Records of Council Meetings

Records should be kept of *Council Meetings* in accordance with the *Act*.

DIVISION 14 – CONDUCT AND BEHAVIOUR

80. Conduct of Councillors

80.1. The conduct of *Councillors* at *Council Meetings* is governed by the *Act*, this Local Law and the *Councillor Code of Conduct*.

80.2. During the course of any *Council Meeting*, *Councillors* must comply with the *Councillor Code of Conduct*, a copy of which is available on the Website, or can be obtained by contacting the *Chief Executive Officer's* office.

81. Public addressing the Council meeting

Any member of the public addressing *Council* must extend due courtesy and respect to *Council* and the processes under which it operates and must take direction from the *Chairperson* whenever called on to do so.

82. Chairperson may remove

The *Chairperson* may order and cause the removal of any person who disrupts any *Council Meeting* or fails to comply with a direction.

83. Suspensions

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

84. Offences

It is an *Offence* for:

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

Penalty: 2 *Penalty Units*

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

Penalty: 5 *Penalty Units*

- 84.3. any person to fail to comply with a direction of the *Chairperson* in relation to the conduct of the *Council Meeting* and the maintenance of order; or

Penalty: 2 *Penalty Units*

- 84.4. a *Councillor* to refuse to leave the *Chamber* on suspension.

Penalty: 5 *Penalty Units*

85. Chairperson may adjourn disorderly Council Meeting

If the *Chairperson* is of the opinion that disorder at the *Council* table or in the gallery makes it desirable to adjourn the *Council Meeting*, he or she may adjourn the *Council Meeting* to a later time on the same day or to some later day as he or she thinks proper. In that event, clause 22 applies.

86. Removal from Chamber

The *Chairperson*, or *Council* in the case of a suspension, may ask the *Chief Executive Officer* or a member of the Victoria Police to remove from the *Chamber* any person who acts in breach of this Local Law and whom the *Chairperson* has ordered to be removed from the gallery under clause 88 of this Local Law or whom *Council* has suspended under clause 89 of this Local Law.

DIVISION 15 – ADDITIONAL DUTIES OF CHAIRPERSON

87. The Chairperson's duties and discretions

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

- 87.1. must not accept any motion, question or statement which:

- 87.1.1. may reasonably be considered to be derogatory, defamatory indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;

87.1.2. relates to a matter outside the duties, functions and powers of *Council*;

87.1.3. is aimed at embarrassing a *Councillor*, a member of *Council* staff or member of the community;

87.2. must call to order any person who is disruptive or unruly during any *Council Meeting*.

DIVISION 16 – SUSPENSION OF STANDING ORDERS

88. Suspension of Standing Orders

Council may decide to suspend the *Council Meeting* to discuss the issues surrounding an item on the *Agenda*. *Council* may discuss in the *Council Chamber* or move to another room to discuss in private.

88.1. To expedite the business of a *Council Meeting* *Council* may suspend *Standing Orders*.

Explanatory Note: The suspension of Standing Orders should be used to enable full discussion of any issue without the constraints of formal meeting procedures. Its purpose is to enable the formalities of meeting procedures to be temporarily disposed of while an issue is discussed.

88.2. 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 Orders* be suspended to enable discussion on....."

88.3. 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 17 – MISCELLANEOUS

89. Procedure not provided in Local Law

In all cases not specifically provided for by this Local Law, resort must be had to the *Standing Orders* and Rules of Practice of the Upper House of the Victorian Parliament (so far as the same are capable of being applied to *Council* proceedings).

90. Criticism of members of Council staff

90.1. The *Chief Executive Officer* may make a brief statement at a *Council Meeting* in respect of any public statement (whether made at a *Council Meeting* or not) which has been critical of or may adversely affect any *Officer* of *Council*.

90.2. A statement under clause 90.1 must be made at such time during the *Meeting* at which *Chief Executive Officer* desires to bring it forward and as the *Chairperson* thinks appropriate.

DIVISION 18 - SPECIAL COMMITTEES

91. Application generally

91.1. If *Council* establishes a *Special Committee*, all of the provisions of Divisions 1-18 of this Local Law shall apply with any necessary modifications or adaptations.

91.2. For the purposes of clause 91.1, a reference in Division 1-18 of this Local Law to:

91.2.1. a *Councillor* is to be read as a reference to a member of the *Special Committee*; and

91.2.2. the *Mayor* is to be read as a reference to the *Chairperson* of the *Special Committee*.

92. Application specifically

Notwithstanding clause 91, if *Council* establishes a *Special Committee*:

92.1. *Council* may; or

92.2. the *Special Committee* may, with the approval of *Council*;

resolve that any provision(s) of Divisions 1-18 is or are (as appropriate) not to apply, whereupon that provision or those provisions shall not apply until *Council* resolves, or the *Special Committee* with the approval of *Council* resolves, otherwise.

The Common Seal of the Ballarat City Council was hereunto affixed in the presence of:

Mayor (or)

Councillor (and)

Chief Executive Officer