

# **Meeting Procedure Local Law**

## **May 2015**

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# **1 Introduction**

## **1.1 Title**

This Local Law is known as the 'Meeting Procedure Local Law'

## **1.2 Purpose**

The purpose of this Local Law is to:

- a. regulate proceedings at Council Meetings, Special Committee Meetings and other meetings conducted by or on behalf of Council where Council has resolved that the provisions of this Local Law are to apply;
- b. regulate proceedings for the election of the Mayor, Deputy Mayor and Chairpersons;
- c. facilitate community engagement by providing opportunities at meetings for community members to express their views;
- d. ensure the efficient and orderly conduct of meetings;
- e. regulate the use and keeping of the common seal; and
- f. ensure the peace, order and good government of the municipal district.

## **1.3 Authorising Provisions**

This Local Law is made under sections 91(1) and 111(1) of the Local Government Act 1989. Under section 91(1) of the Act 'a council must make laws governing the conduct of meetings of the Council and Special Committees.'

## **1.4 Commencement and area of operation**

This Local Law comes into operation on the day following the publication of the making of it in the Government Gazette pursuant to section 119(3) of the Act. This Local Law operates throughout the municipal district of the Council.

## **1.5 Revocation**

On the commencement of this Local Law, the Meeting Procedure Local Law made by Council on 23 February 2010 is hereby revoked.

## **1.6 Sunset provision**

This Local Law ceases to operate ten (10) years after the day on which it is made unless revoked earlier.

## 1.7 Definitions

Unless inconsistent with the subject matter, the following words have the meaning indicated:

Words	Meaning
Act ('the Act')	Local Government Act 1989
Agenda	a document, electronic or paper, in the form of a notice which specifies the date, time and place of a Meeting and the business to be transacted at the Meeting and includes any accompanying documents
Assembly of Councillors	has the same meaning as defined in s.3 of the Act
Authorised Officer	a person appointed by the Council under section 224 of the Act
Business days	Monday to Friday inclusive of each week except for Public Holidays
Chairperson	the Chairperson of a meeting and includes an acting or temporary Chairperson
Chief Executive Officer	the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer
Clause	a clause of this Local Law
Committee Meeting	a meeting of a Special Committee
Common Seal	the common seal of Council
Council	Nillumbik Shire Council
Councillor	a Councillor of Nillumbik Shire Council
Council Meeting	any Ordinary or Special Meeting of Council
Deputy Mayor	the Deputy Mayor of Council and any person acting as Deputy Mayor
Majority of the votes	the votes cast by a majority of the Councillors or members of the Special Committee present at a meeting at the time the vote is taken
Mayor	the Mayor of Council and any person acting as Mayor
Meeting	includes an Ordinary Meeting, Special Meeting and a Special Committee Meeting but does not include an Assembly of Councillors
Minutes	the official written record of the proceedings and

Words	Meaning
	decisions of a meeting which have been signed by the Mayor/Chair
Motion	a proposal framed in a way that will result in the opinion of the Council being expressed or a Council decision being made
Municipal district	the area from time to time comprising the municipal district of Council
Notice of Motion	a notice setting out the text of a motion which a member proposes to move at the next relevant meeting
Offence	an act or default contrary to this Local Law
Ordinary Meeting	an Ordinary Meeting of Council
Penalty unit	has the same meaning as ascribed to it by section 110 of the Sentencing Act 1991
Petition	is a written request for action to be taken by Council, signed by 15 or more petitioners.
Point of order	a procedural point, not involving the substance of a matter before a meeting
Procedural Motion	means a motion which relates to a procedural matter only and which is not designed to produce any substantive result but used merely as a formal procedural measure.
Resident	a person who has a place of residence within the municipal district
Senior Officer	has the same meaning as prescribed in the Act
Special Committee	a Special Committee established by Council under section 86 of the Act
Special Meeting	a Special Meeting of Council
Visitor	any person (other than a Councillor or member of Council staff) who is in attendance at a Council Meeting or a Special Committee Meeting
Written	includes duplicated, photocopied, photographed, transmitted by facsimile, transmitted electronically, printed or typed



## **2 Notices and Agendas**

### **2.1 Date, time and place of meetings**

The dates, times and places of meetings are within the discretion of Council.

Council may, by resolution, at an Ordinary Meeting or a Special Meeting alter the day and time upon which any Ordinary Meeting or Special Meeting shall be held.

An Ordinary and Special Meeting must not continue after 10.30pm unless a majority of Councillors present vote in favour of the meeting continuing.

### **2.2 Notice of meeting**

The Chief Executive Officer must give at least seven (7) days' public notice of the date, time and place of a meeting on Council's website, by advertisement in a local newspaper and by the placement of the meeting advice on the notice board at the Civic Centre, Greensborough, unless urgent or extraordinary circumstances prevent compliance with this clause.

The Chief Executive Officer must ensure that the agenda for any Ordinary Meeting or Special Meeting of Council is provided to every Councillor at least two (2) business days before the meeting.

### **2.3 Attendance at meetings**

In accordance with section 89(1) of the Act, all meetings of Council must be open to members of the public unless section 89(2) of the Act applies.

Council may resolve, in accordance with section 89(2) of the Act, that its meeting be closed to members of the public if the meeting is discussing:

- a. personnel matters;
- b. the personal hardship of any resident or ratepayer;
- c. industrial matters;
- d. contractual matters;
- e. proposed developments;
- f. legal advice;
- g. matters affecting the security of Council property;
- h. any other matter which Council or the Special Committee considers would prejudice Council or any person; or
- i. a resolution to close the meeting to members of the public.

## **2.4 Business to be transacted**

No business shall be transacted at an Ordinary Meeting or Special Meeting of Council unless it appears on the agenda.

Notwithstanding the above, an item of business which has:

- a. been referred to Council by a Special Committee which has met since the agenda was prepared; or
- b. arisen since the preparation of the agenda, and is of such importance that deliberation by Council cannot be delayed,

may be considered by Council only if admitted in accordance with the provisions of clause 6.15.

## **3 Quorum**

### **3.1 Quorum**

The quorum in relation to Council Meetings is a majority of the number of Councillors.

The quorum in relation to Special Committees is a majority of the number of persons who comprise the committee and who are entitled to vote, or such other number as Council specifies when establishing the committee.

### **3.2 Failure to raise or maintain a quorum**

If a quorum cannot be formed within 30 minutes of the time appointed for the commencement of a Council Meeting, then the meeting may be adjourned for not more than seven (7) days by:

- a. a resolution of the majority of the Councillors present; or
- b. if there are not any Councillors present, by the Chief Executive Officer; or;
- c. in the absence of the Chief Executive Officer, any other Senior Officer present at the meeting.

If the meeting cannot be maintained due to the temporary absence of Councillors because of a conflict of interest or any other reason, the Chair can temporarily adjourn the meeting for up to 10 minutes.

The Chief Executive Officer must give all Councillors notice of the resumption of the adjourned meeting.

### **3.3 Inability to maintain a quorum due to declarations of interests**

If during any meeting it becomes apparent to the Chairperson that it will not be possible to maintain a quorum due to the number of Councillors who have disclosed a conflict of interest in an item of business and will be unable to vote, the Chairperson shall direct that item of business be deferred and be considered at the next available meeting when a quorum can be reached or, alternatively, until the Chief Executive Officer is able to obtain an exemption from the Minister in accordance with section 80(2) of the Act.

## **4 Call of the Council**

### **4.1 Call of the Council**

If a quorum of Council cannot be formed and maintained due to the absence of Councillors, the Minister or the Chief Executive Officer may require all Councillors to attend a Call of the Council Meeting. This is reflected in section 85 of the Act.

A Call of the Council Meeting must be treated as a Special Meeting.

The Minister responsible for administering the Act (or a person appointed by the Minister) is entitled to attend and speak at a Call of the Council Meeting which he or she has required Councillors to attend.

If a Councillor does not attend within 30 minutes after the time fixed for a Call of the Council Meeting, or remain at the Meeting, the Chief Executive Officer must immediately advise the Minister in writing.

## **5 Minutes**

### **5.1 Minutes**

At every Council Meeting and Special Committee Meeting the minutes of the preceding meeting(s) must be dealt with as follows:

- a. a copy of the minutes, either electronic or paper, must be provided to each Councillor no later than two (2) business days before the meeting at which the minutes are to be confirmed; and
- b. the minutes must be confirmed by a motion of Council or the Special Committee and once confirmed, with or without amendment, they must be signed by the Chairperson of the meeting at which they have been confirmed.

When confirmation of the minutes is being dealt with at the meeting, a Councillor dissatisfied with the accuracy of the minutes can express opposition in regards to a particular matter on the basis that the record is incomplete or inaccurate. The Councillor must specify the particular item in the minutes and can, after asking any question to clarify the matter, propose a motion clearly outlining the alternative wording to amend the minutes.

When a motion is moved to rectify an alleged error(s) as indicated in the preceding clause, the motion must be seconded and shall be dealt with in accordance with clauses 8.2.3 and 8.2.4 of this Local Law.

At the discretion of the Chairperson a decision on the confirmation of the minutes may be deferred until later in the meeting or until the next meeting as appropriate, or the matter may be put to the vote.

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

The minutes must be documented and each item be numbered consecutively.

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 Special Committee Meeting and those minutes must record:

- a. the name of the Councillors and/or Committee members present and the name of the Councillors and/or Committee members who have submitted apologies or have been granted leave of absence;
- b. the names of staff members present at the meeting;
- c. arrivals and departures (including temporary departures of Councillors and/or Committee members during the course of the meeting);
- d. declarations of conflicts of interest;

- e. each motion and amendment moved (including motions and amendments that lapse for the want of a seconder) and motions and amendments withdrawn by resolution or with the consent of both the mover and seconder of the motion or amendment;
- f. whether motions or amendments were carried or lost;
- g. the vote cast (if any) by each Councillor and/or Committee member upon a division, either for, against or abstaining, and the declaration of the result of the division on the motion or amendment;
- h. questions from the gallery and responses to those questions;
- i. the failure of a quorum;
- j. closure of the meeting to members of the public in accordance with the provisions of section 89(2) of the Act;
- k. when specifically requested by a Councillor, a record of their support or opposition for any motion;
- l. a summary of all committee reports presented to Council;
- m. the time and reason for any adjournment of the meeting or suspension of standing orders; and
- n. any other matter which the Chief Executive Officer (or other person authorised by the Chief Executive Officer) thinks should be recorded to clarify the intention of the meeting or the reading of the minutes .

## **6 Business of a Meeting**

### **6.1 Order of Business of a meeting**

The order in which business is listed on the agenda is determined by the Chief Executive Officer and should be kept consistent from meeting to meeting.

The Chief Executive Officer may include any matter on the agenda that he or she believes should be considered by the Council.

Subject to any resolution providing otherwise, the order of business of any Ordinary Meeting must be as follows:

- a. Reconciliation Statement
- b. Prayer
- c. Good Governance Pledge Statement
- d. Apologies
- e. Declarations of Conflicts of Interest
- f. Presentations
- g. Confirmation of Minutes
- h. Petitions
- i. Questions from the Gallery
- j. Reports of Advisory Committees
- k. Reports of Special Committees
- l. Officers' Reports
- m. Notices of Motion
- n. Delegates Reports
- o. Supplementary and Urgent Business
- p. Confidential Reports

### **6.2 Reconciliation Statement**

At each Ordinary Meeting, the Mayor shall read out a civic statement of acknowledgement of prior indigenous occupation.

### **6.3 Prayer**

At each Ordinary Meeting, the Mayor or nominee shall read out a Prayer.

## **6.4 Good Governance Pledge Statement**

At each Ordinary Meeting, the Mayor or a Councillor shall read out a Good Governance Pledge Statement.

## **6.5 Apologies**

If a Councillor is an apology at an Ordinary Meeting, Special Meeting or Special Committee Meeting the apology will be noted by resolution in the minutes.

## **6.6 Conflicts of Interest**

Section 77A of the Act defines when a Councillor will have a conflict of interest. The onus is on the Councillor to identify any conflicts of interest in matters before Council or Special Committee.

Councillors must comply with the requirements of Section 79 of the Act.

A Councillor or Member of a Special Committee who has a conflict of interest in a matter before Council:

- a. should complete a 'Disclosure of Conflict of Interest Form' and lodge it with the Chief Executive Officer prior to the commencement of the Meeting;
- b. must disclose any conflict of interest which he/she has in an item of business at the time specified on the Agenda;
- c. must disclose the nature of the conflict of interest immediately before the consideration of the relevant matter;
- d. must leave the Chamber prior to discussion on the matter;
- e. must notify the Chairperson that he/she is leaving the Chamber; and
- f. must remain outside the Chamber or any other area in view or hearing of the Chamber until the vote has been taken.

In the event that the Chairperson has disclosed a conflict of interest he/she must vacate the Chair and a temporary Chairperson must be elected in accordance with clause 14.3.

Where a Councillor has vacated the room after disclosing a conflict of interest, the Councillor must be called back into the room before the meeting can advance to the next item of business.

A member of Council staff must comply with section 80B and 80C of the Act.

## **6.7 Presentations**

At each Ordinary Meeting, presentations of monetary grants, certificates of appreciation or other acknowledgements that recognise the outstanding achievements of local individuals and organisations who have made a significant contribution to Nillumbik, may be made.



## **6.8 Confirmation of Minutes**

The confirmation of minutes shall take place in accordance with Clause 5.1.

## **6.9 Petitions**

A person may lodge a petition with Council. Provided that the petition is lodged one (1) week prior to the next Ordinary Meeting it will be included in the Council agenda for that meeting.

A person lodging a petition is to ensure that the petition contains:

- a. a clear and concise statement identifying the subject matter; and
- b. a heading on each page indicating the subject matter; and
- c. a brief statement on each page of the subject matter and the action requested; and
- d. a statement specifying the number of signatories; and
- e. the full printed name, address and signature of the person lodging the petition at the end of the petition.

Petitions must not be indecent, abusive or objectionable in language or substance.

Every page of the petition must bear the wording of the whole of the petition or request and include the name, address and signature of petitioners.

Signatures appearing on a page of a petition which does not bear the wording of the whole of the petition or request, must not be considered by Council.

A petition will be presented by a Councillor at the Council Meeting

The Councillor presenting the petition:

- a. shall identify the issue;
- b. shall state the number of signatures attached to the petition;
- c. shall read the petition in full or precis form; and
- d. may move 'That the petition be received and noted' and any other action appropriate.

In the case of a document containing a written request for action to be taken by Council that contains fewer than 15 signatures, it will not be presented at the Council meeting and will, instead, be forwarded to the relevant General Manager for response.

## **6.10 Questions from the Public**

There shall be a public question time at every Ordinary Meeting of Council to enable members of the public to address questions to Council. Questions are limited to a maximum of two (2) questions per individual. Questioners are expected to disclose any personal or professional interests in the subject matter of their questions on the question forms available at the Meeting or on Council's website.

All such questions must be received in writing and must include the name of the person asking the question. Where there are more than two (2) questions received from any one individual person, the Chief Executive Officer will determine the two (2) questions to be read and answered at the meeting.

All such questions must be received by the Chief Executive Officer or other person authorised for this purpose by the Chief Executive Officer no later than:

- a. 10 minutes prior to the advertised commencement time of the Ordinary Meeting if questions are submitted in person; or
- b. 5pm on the day of the Ordinary Meeting if questions are submitted electronically.

A question will only be read to the meeting if the Chairperson and/or Chief Executive Officer has determined that the question:

- a. is a question and not a statement or opinion;
- b. is not indecent, abusive or objectionable in language or obscene;
- c. is not repeating a question already answered whether at the same or an earlier meeting;
- d. is not, in the opinion of the Chairperson, asked to embarrass a Councillor or an officer; and
- e. does not relate to a matter which the Council has discussed in camera or proposes to discuss after closing the meeting to members of the public in accordance with section 89(2) of the Act.

The procedure and sequence for dealing with the question shall be that the Chairperson:

- a. shall name the questioner and enquire if they are present in the gallery;
- b. shall read out the question; and
- c. may answer the question or direct the question as he/she deems appropriate.

Questions must be answered, taken on notice or disallowed. All questions and answers shall be as brief as possible.

Question time shall be limited to a period of up to 15 minutes.

Council will allocate a reasonable time to each person who wishes to address a question to Council having regard to:

- a. the nature of the matter to be discussed;
- b. the priorities in relation to other Council business;
- c. other members of the community present who also wish to address a question to Council, and
- d. the overall time limit for question time.

## **6.11 Reports of Committees**

Any report of a Special Committee must:

- a. contain a recommendation or recommendations to Council; and
- b. be included in the agenda for the next convenient meeting of Council.

## **6.12 Officers' reports**

Officers reports will be presented in the agenda. The Chair can exercise his/her discretion as to whether to accept a question from a Councillor to a Council officer about a report and the Council officer may take the question on notice.

## **6.13 Notices of motion**

Subject to Clause 2.4 of this Local Law, a Councillor may move a motion if notice of such motion has been given in accordance with this Local Law.

A Notice of Motion must be lodged with the Chief Executive Officer in written form by 12 noon one (1) week prior to the Ordinary Meeting of Council at which it is to be considered. Any Notice of Motion received after that time must, unless withdrawn in writing, be included on the agenda for the next following Ordinary Meeting of Council.

A Councillor may also give a Notice of Motion at a Council Meeting. In this case, the item will be listed at the next following Ordinary Meeting of Council.

The full text of the proposed motion must be included on the agenda. No other explanatory information will be included on the agenda.

The Chief Executive Officer may reject a Notice of Motion if he or she is of the opinion that it is:

- a. defamatory;
- b. objectionable in language or nature;
- c. vague or unclear in intention; or
- d. outside the powers of Council.

If the Chief Executive Officer rejects a Notice of Motion under this clause, he or she will inform the Councillor who lodged it of that rejection and the reasons for it.

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.

Except by leave of the Council, each Notice of Motion before any meeting must be considered in the order in which they were entered in the Notice of Motion Register.

If a Councillor who has given a Notice of Motion:

- e. is absent from the meeting; or
- f. fails to move the motion when called upon by the Chairperson

any other Councillor may move the motion. If the motion is not moved and seconded then the Notice of Motion lapses.

If a Councillor proposing a Notice of Motion wishes to amend the Notice of Motion he/she may do so by seeking leave of Council to amend the Notice of Motion prior to it being seconded.

Except where the Notice of Motion is to confirm a previous resolution of Council, the Notice of Motion may be amended by resolution of Council.

If a Notice of Motion, whether amended or not, is lost, a similar motion cannot again be put before Council for a period of three (3) calendar months from the date it was lost.

A preamble to a Notice of Motion is an explanatory statement that explains the purpose of the Notice of Motion. A Councillor lodging a Notice of Motion must ensure that the content of any preamble provided remains factual

#### **6.14 Delegates' report**

At each Ordinary Meeting, Councillors will have the opportunity to speak for up to three minutes in their capacity as a Council delegate to an external organisation.

#### **6.15 Supplementary and urgent business**

Business must not be admitted as urgent business unless it:

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

Supplementary and Urgent Business items shall be admitted at the discretion of the Chairperson.

## **7 Addressing the Meeting**

### **7.1 Addressing the meeting**

Except for the Chairperson, any Councillor or person who addresses the meeting must direct all remarks through the Chair.

Except in the case of sickness or infirmity, a Councillor must rise when speaking at a Council meeting.

The Chairperson may remain seated when speaking at a Council meeting.

It is unnecessary to rise when speaking at a Committee meeting.

Any person addressing the Chair must refer to the Chairperson as:

- a. Mayor; or
- b. Mr Mayor; or
- c. Madam Mayor; or
- d. Chair; or
- e. Mr Chairperson; or
- f. Madam Chairperson.

Councillors and members of Council staff in speaking must address each other by their titles of Councillor or Officer as the case may be.

## **8 Meeting Procedures Voting**

### **8.1 Voting**

Voting shall be in accordance with the Act. A matter will be determined in the affirmative if the majority of Councillors at a meeting at the time the vote is taken vote in favour of it.

A Councillor has the right to abstain from voting.

Except that a Councillor may demand a division, Councillors must remain seated in silence while a vote is being taken

Unless Council resolves otherwise, voting on any matter will be by a clear show of hands so that the Chairperson can easily record the count.

#### **8.1.1 Recount of vote**

The Chairperson may direct that the vote be re-counted as often as may be necessary for him or her to satisfy himself or herself of the result.

#### **8.1.2 Casting Vote**

In the event of an equality of votes, the Chairperson has a casting vote.

This clause does not apply in the event of an equal number of votes in respect of the election of the Mayor or Deputy Mayor or in cases where the Act provides that a matter is to be determined by lot.

#### **8.1.3 Division**

Immediately after any matter is voted upon and before the next item of business has commenced, a Councillor may call for a division.

When a division is called for, the vote already taken must be treated as a nullity and the voting by division shall decide the motion or amendment. Any Councillor may change their original vote at the voting on the division.

When a division is called for, the Chairperson 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 must raise one of his or her hands. The Chairperson must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting) must record the names of those Councillors voting in the affirmative; and
- b. then ask each Councillor wishing to vote in the negative to raise a hand and, upon such request being made, each Councillor wishing to vote in the negative must raise one of his or her hands. The Chairperson must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend

the meeting and take the minutes of such meeting) must record the names of those Councillors voting in the negative; and

- c. if required, then 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 Chairperson must then state, and the Chief Executive Officer (or any person authorised by the Chief Executive Officer to attend the meeting and take the minutes of such meeting), must record the names of those Councillors abstaining from voting.

#### **8.1.4 Declaration of vote**

The Chairperson must declare the result of the vote or division as soon as it is taken.

#### **8.1.5 Resolution not to be discussed after it is carried**

Except in the case of a motion of rescission or alteration or a Councillor wishing to have his or her opposition to the motion recorded, no resolution may be discussed after the vote upon it has been declared.

#### **8.1.6 Recording of opposition to motion**

Any Councillor may ask that his or her opposition to a motion adopted by the meeting be recorded. It must then be recorded in the minutes of the meeting.

### **8.2 Motions and Amendments**

#### **8.2.1 Form of motion**

A motion or an amendment:

- a. must relate to the powers or functions of Council;
- b. may be in writing or verbal however, the Chairperson may insist that it be in writing and tabled when the motion or amendment is moved; and
- c. except in the case of urgent business, must be relevant to an item of business on the agenda.

A motion or amendment must be clear and unambiguous and must not be defamatory or objectionable in language or nature.

The Chairperson may refuse to accept any motion or amendment which contravenes this clause.

#### **8.2.2 Moving a motion or amendment**

The procedure for any motion or amendment is:

- a. the mover must state the motion or amendment and then move it without speaking to it;

- b. the Chairperson must call for a seconder; and
- c. a motion or amendment which is not seconded lapses for want of a seconder.

Any Councillor can move or second a motion.

### **8.2.3 Unopposed motion or amendment**

If a motion or an amendment is seconded the Chairperson must first ask if there are any questions and then if there is any opposition.

The mover of any motion may speak to that motion.

If no Councillor indicates opposition, it must be declared to be carried.

### **8.2.4 Debate of opposed motion**

If any Councillor indicates opposition to a motion which has been seconded:

- a. the Chairperson must call the mover to address Council upon it;
- b. after the mover has spoken, the Chairperson must call upon the seconder to address the meeting;
- c. after the seconder has addressed the meeting (or after the mover if the seconder does not wish to speak) the Chairperson must call upon the first speaker in opposition to address the meeting;
- d. after the mover, seconder and first speaker in opposition have had the opportunity to address the Meeting the Chairperson will call for speakers for and against the motion in alternate sequence until the sequence of speakers is exhausted; and
- e. a Councillor may speak once on the motion except for the mover of the motion who has a right of reply after which the motion must be put to the vote.

A Councillor calling the attention of the Chairperson to a Point of Order is not regarded as speaking to the motion.

### **8.2.5 Right of reply**

The mover of an original motion which has not been amended may, once debate has been exhausted, exercise a right of reply to matters raised during the debate.

After the right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate.

A Councillor must not digress from the subject matter of the motion or business under discussion. No new debate or matters are to be introduced with a right of reply.



### **8.2.6 Moving an Amendment**

Once a motion has been moved and seconded, it may be amended by leaving out or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole.

Any amendment may be proposed or seconded by any Councillor, other than the mover or seconder of the original motion.

If any Councillor intends to move an amendment, he or she must give notice of that intention prior to the right of reply being exercised.

No amendment shall be moved that is contrary in substance to the original motion or negates the motion upon which it has been moved.

### **8.2.7 Motion not to be withdrawn without consent**

A motion or amendment cannot be withdrawn without the consent of the meeting by resolution.

### **8.2.8 No right of reply for amendments**

The mover of an amendment has no right of reply.

### **8.2.9 Who may debate an amendment**

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

### **8.2.10 How many amendments may be proposed**

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

### **8.2.11 Second or subsequent amendments**

A second or subsequent amendment cannot be moved until the immediately preceding amendment is resolved.

A Councillor cannot move more than two amendments in succession.

### **8.2.12 An amendment once carried**

If an amendment is carried it becomes the substantive motion and, unless subject to further amendment and debate, must be put to the vote by the Chairperson but only after Councillors who did not speak to the original motion have exercised their right to do so.

### **8.2.13 Foreshadowing a motion**

A Councillor may foreshadow a motion to inform the Council of his or her intention to move a motion at a later stage in the Meeting, but this does not extend any special rights to the foreshadowed motion.

A foreshadowed motion may be prefaced with a statement that in the event a particular motion before the Chair is resolved in a certain way a Councillor intends to move an alternative or additional motion.

Since a foreshadowed motion has no procedural standing and is merely a means to assist the flow of the meeting, it will not be recorded in the minutes.

The foreshadowed motion must be relevant to the debate in progress.

### **8.2.14 Separation of a Motion**

Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts. If the Chair does not consent to the request then Council may determine the matter as per Clause 8.5.3 (Disagreeing with the Chairperson's ruling).

### **8.2.15 Deferral of a Motion**

Council may defer an item until later in the Meeting or until another Meeting as appropriate if further consideration or clarification is required prior to a decision being made. The decision to defer an item is a substantive motion, and may be debated.

### **8.2.16 Motions in Writing**

If a Councillor wishes to move a motion, and the motion is lengthy, complicated or the exact intention of the motion is unclear, the Chairperson may request the Councillor to submit their motion in writing

The Chairperson may suspend the Meeting while the motion is being written.

### **8.2.17 Debating a Motion**

Debate must always be relevant to the motion before the Chair, and if not, the Chairperson must request the speaker to confine debate to the subject motion.

If after being told to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chairperson may disallow the speaker any further opportunity to debate or comment in respect to the matter before the Chair.

### **8.2.18 Debate from the Chair**

The Chair of the meeting should seek to refrain from debate on motions. The Chair may however choose to exercise a right to speak in favour of or against a motion and where

this is the case, the Chair must advise the Council of their intention and stand while speaking to the matter under discussion.

Where the Chair wishes to move or second a motion, they must temporarily vacate the Chair before the motion is considered by Council. A temporary Chairperson must be elected in accordance with clause 14.

### **8.2.19 Resumption of adjourned debate**

The business to which the debate relates must be placed on the Agenda of the Meeting to which it is adjourned. Adjourned business should have priority over any other business except formal business.

If a debate is adjourned by motion, the Councillor moving the adjournment has the right to be the first speaker upon the resumption of debate unless he or she has already spoken to the motion or amendment.

### **8.2.20 Rescission motions**

A Rescission Motion is a motion to rescind or vary a previous decision of Council.

Any Councillor may propose a Notice of Rescission at a subsequent meeting. The Notice of Rescission must be received by the Chief Executive Officer in writing no later than 12 noon the Tuesday prior to the next subsequent meeting.

A Councillor may propose a motion to rescind or to vary a previous resolution of Council by a Notice of Rescission.

A Councillor may propose a Notice of Rescission provided:

- a. the resolution proposed to be rescinded has not been acted on; and
- b. the Notice of Rescission is delivered to the Chief Executive Officer setting out:
  - i) the resolution to be rescinded; and
  - ii) the meeting and date when the resolution was carried.

A Rescission Motion listed on the agenda may be moved by any Councillor present but may not be amended.

A second or subsequent notice to rescind or alter an earlier resolution must not be accepted by the Chief Executive Officer until a period of two (2) months (sixty (60) days) has elapsed since the date of the Meeting at which the original motion of rescission or alteration was dealt with, unless Council resolves that the matter be dealt with at a future meeting.

This clause will not apply if the CEO, in consultation with the Mayor, considers that significant new information has become available since the previous rescission motion that warrants inclusion of the subsequent rescission motion in the agenda.

The Chief Executive Officer or an appropriate member of Council staff may implement a resolution at any time after the close of the meeting at which it was made. A resolution will therefore be deemed to have been acted on if:

- a. its contents have or substance has been formally communicated to a person whose interests are materially affected by it; or
- b. a statutory process has been commenced,

so as to vest enforceable rights in or obligations on Council or any other person.

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 to the Chief Executive Officer in accordance with this clause,

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

## **8.3 Procedural Motions**

### **8.3.1 Procedural motions**

A procedural motion is one dealing with the conduct of the Meeting itself, and takes precedence over a substantive motion.

A procedural motion may be moved at any time and must be dealt with immediately by the Chairperson in accordance with the Procedural Motion table below.

Procedural motions are not required to be seconded.

The mover of a procedural motion must not have moved or seconded the question before the Chair or any amendment of it.

A procedural motion cannot be moved by the Chairperson.

The mover has the right or obligation to justify the procedural motion, thereafter debate is not permitted unless allowed at the discretion of the Chairperson and the mover does not have a right of reply.

A procedural motion cannot be amended.

<b>Procedural Motion</b>	<b>When motion prohibited</b>
That the meeting be adjourned to *am/pm or *date	During the election of a Chairperson When another Councillor is speaking
That this meeting be adjourned until further notice	During the election of Chairperson During a meeting which is a Call of the Council When another Councillor is speaking
That the motion now be put	During nominations for Mayor, Deputy Mayor and Chairperson When moved by a Councillor who has already spoken to the motion or amendment
That the order of business be adjusted as follows...	During the election of Mayor, Deputy Mayor and Chairperson

## **8.4 Speaking to the meeting**

### **8.4.1 Time limits**

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

- a. the mover of a motion or an amendment five (5) minutes;
- b. the seconder of a motion or an amendment three (3) minutes;
- c. any other member three (3) minutes; and
- d. the mover of a motion exercising a right of reply two (2) minutes.

Any extension shall only be permitted at the discretion of the Chairperson.

### **8.4.2 Interruptions, interjections and relevance**

The Mayor is responsible for the conduct of orderly Council Meetings in accordance with this Local Law and the Act.

A Councillor must not be interrupted except by the Chairperson or upon a point of order or personal explanation.

If a Councillor is interrupted by the Chairperson or upon a point of order or personal explanation, he or she must remain silent until the Chairperson has ceased speaking, the point of order has been determined or the personal explanation has been given.

A Councillor must not digress from the subject-matter of the motion or business under discussion.

The mover of a motion must not introduce fresh matter when exercising any right of reply.

At the discretion of the Chairperson, questions from Councillors to Council Officers or to other Councillors, may be disallowed if it is considered they are asked for purposes other than the simple soliciting of information

### **8.4.3 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 consistent with Clause 8.2.4.

## **8.5 Points of order**

### **8.5.1 Points of Order**

A point of order is taken when a Councillor officially draws the attention of the Chairperson to an alleged irregularity in the proceedings that contravenes this Local Law or the Act.

Councillors 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.

A Councillor may raise a point of order by drawing the attention of the Chairperson to:

- a. the fact that a Councillor or member is out of order; or
- b. an act of disorder, despite the fact that the Chairperson or a Councillor is speaking at the time.

When called to order, a Councillor must sit down and remain silent until the point of order is decided unless he or she is requested by the Chairperson to provide an explanation.

The Chairperson may raise a point of order without it having been raised by a Councillor.

A Point of Order takes precedence over all other business, including procedural motions.

### **8.5.2 Chairperson to decide Point of Order**

The Chairperson may adjourn the meeting to consider the point of order, but must otherwise rule upon it as soon as it is taken.

If called upon to do so by a Councillor, the Chairperson must, when ruling on a point of order, state the provision of this Local Law or the Act which is relied on in support of the ruling.

### **8.5.3 Disagreeing with Chairperson's ruling**

A Councillor may move that the meeting disagree with the Chairperson's ruling on a point of order.

When a motion in accordance with this Clause is moved and seconded the Chairperson must leave the Chair and a temporary Chairperson, the Deputy Mayor if present at the meeting, must take his or her place. If Council has not elected a Deputy Mayor or the Deputy Mayor is absent from a meeting of Council, the Chief Executive Officer must take the Chair and invite nominations for a temporary Chairperson. If there is only one nomination (which must be moved and seconded), the candidate nominated is deemed to have been duly elected. If there is more than one nomination, the procedure for the election of the Mayor in Part 14 should be followed.

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

The temporary Chairperson then puts a motion in the following form:

“That the Chairperson’s ruling be upheld”.

If the vote is in the:

- a. affirmative, the Chairperson resumes the Chair and the meeting proceeds.
- b. negative, the Chairperson resumes the Chair, reverses his or her previous ruling and the meeting proceeds.

The defeat of the Chairperson’s ruling is in no way a motion of censure or no-confidence and should not be regarded as such by the meeting.

### **8.5.4 Personal explanation**

A Councillor may, with the consent of the Chair, make a brief personal explanation in respect of any statement affecting him or her as a Councillor.

A personal explanation arising out of a statement at a Council Meeting must be made as soon as possible.

### **8.5.5 Ordering withdrawal of remark**

The Chairperson may require a Councillor to withdraw any remark which is defamatory, indecent, abusive or offensive in language or substance, or that is disorderly or capable of being applied offensively to any other Councillor or member of Council staff, and/or make a satisfactory apology to the Meeting.

A Councillor required to withdraw a remark and/or make an apology must do so immediately without qualification or explanation.

A Councillor must not fail to withdraw a remark or make an apology if twice called to do so by the Chairperson.

### **8.5.6 Production of documents**

A Councillor may request at a Council Meeting, the production of any documents in Council's keeping and relevant to the business being considered.

Upon any request being made the Chief Executive Officer must use his or her best endeavours to produce the documents.

## **8.6 Suspension of Standing Orders**

### **8.6.1 Suspension of standing orders**

The provisions of this Local Law applicable to a Council Meeting or Special Committee Meeting may be suspended for a particular purpose upon the affirmative vote of the majority of councillors present.

The suspension of such provisions should be used to enable full discussion of any major issue without the constraints of formal meeting procedure. Suspension of standing orders should not be used purely to dispense with the processes and protocols of the Local Law.

Once the discussion has taken place, and before any motions can be put, the resumption of standing orders will be necessary.

No motion may be accepted by the Chairperson or be lawfully dealt with during any suspension of standing orders.

## **8.7 Adjournments**

### **8.7.1 Adjournment of meetings**

Once a Meeting is declared open, Council may, from time to time, resolve to adjourn the Meeting:

- a. if a quorum is not present within half an hour after the time appointed for the Meeting; or
- b. if at any time throughout a meeting a quorum is lost; or
- c. if the Meeting becomes excessively disorderly and order cannot be restored; or
- d. to allow for additional information to be presented to a Meeting; or
- e. in any other situation where an adjournment could aid the progress of the Meeting.

No discussion is allowed on any motion for adjournment of the Meeting, but if on being put the motion is lost, the subject then under consideration must be resolved before any subsequent motion for adjournment is made.



### **8.7.2 Notice for Adjourned Meeting**

If a Meeting is adjourned, the Chief Executive Officer must ensure that the agenda for such a meeting is identical to the Agenda for the Meeting which was resolved to be adjourned.

Except where a Meeting is adjourned until later on the same day, the Chief Executive Officer must give all Councillors written notice of a new date for the continuation of the adjourned Meeting and every reasonable attempt must be made to advise the public of the new Meeting date.

Where it is not practical to provide written notice to Councillors because time does not permit that to occur then a reasonable attempt will be made to contact each Councillor, by telephone, electronic medium, or in person.

If circumstances prevent a meeting continuing until all business has been considered, then unless adjourned the meeting will lapse and any unfinished business will be included on the agenda for the next meeting.

## **9 Conduct during Council Meetings**

### **9.1 Councillor conduct**

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

### **9.2 Suspensions**

If the procedure specified in this clause is followed, Council may suspend a Councillor from a Meeting and for the balance of the Meeting.

A Councillor must not be suspended unless:

- a. the Chairperson has warned the Councillor that his or her actions are disrupting the business of Council and impeding its orderly conduct; and
- b. Council resolves that the Councillor's actions following the Chairperson's warning are continuing to disrupt the business of Council and impede its orderly conduct, and that the Councillor should be suspended.

A suspension motion may be moved by any Councillor.

A Councillor must not refuse to leave a meeting when ordered to do so in accordance with this clause.

### **9.3 Gallery to be silent**

Visitors must not interject or take part in any debate or in any other way interrupt the business of the meeting.

Members of the gallery must be silent at all times.

If any visitor is called to order by the Chairperson and thereafter again acts in breach of this Local Law, the Chairperson may order him or her to leave the gallery.

A person must not refuse or neglect to leave a meeting when ordered to do so under this clause.

### **9.4 Removal from Chamber**

If a person (including a Councillor) does not leave the meeting when ordered to leave under clause 9.2 or clause 9.3, the Chairperson may request a member of Victoria Police to remove that person.

## **10 Procedure not provided in Local Law**

### **10.1 Procedure not provided in Local Law**

In all cases not specifically provided for by this Local Law, reference must be had to the rules, forms and usages of the Victorian Parliament, Legislative Assembly (so far as the same are capable of being applied to Council or Committee proceedings).

## **11 Provisions to record council meetings**

### **11.1 Recording proceedings**

The Chief Executive Officer (or another person authorised by the Chief Executive Officer) may record, using electronic recording equipment, webcast or podcast the proceedings of a Council Meeting or Special Committee Meeting. Recordings must be retained for a minimum period of three months from the date of the meeting.

Media representatives may be permitted to record, using electronic recording equipment, any part of the proceedings of a Council Meeting or Special Committee Meetings. The consent of the Chair must not be unreasonably withheld, but may be revoked at any time during the course of the relevant meeting.

Subject to this clause, members of the public must not operate electronic recording equipment at any Council Meeting or Special Committee Meeting without the prior written consent of Council. Such consent may be given only after receipt of a written application and may at any time during the course of such meeting be revoked by the Chair.

Members of the public are to be advised if the Meeting is being recorded (audio and video) by venue signage.

## **12 Special Meetings**

### **12.1 Special meetings**

The Mayor or at least three Councillors may, by a written notice to the Chief Executive Officer, call a Special Meeting of Council. The notice must specify the date and time of the Special Meeting and the business to be transacted.

Council may, by a resolution, call a Special Meeting of Council.

The resolution must specify the date and time of the Special Meeting and the business to be transacted.

The Chief Executive Officer must call the Special Meeting as specified in the notice or resolution.

Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice or resolution is to be transacted.

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.

## **13 Special Committees**

### **13.1 Special Committees**

Council may from time to time establish one or more Special Committees comprising the following:

- a. Councillors;
- b. Council staff;
- c. other persons; or
- d. any combination of persons referred to in (a), (b) and (c) above.

If Council establishes a Special Committee, this Local Law will apply to meetings of the Special Committee with any necessary modifications. For this purpose:

- a. a Council Meeting 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 Chairperson of the Special Committee.

If Council establishes a Special Committee, Council may resolve that a provision of this Local Law does not apply to that Committee.

The Chairperson of a Special Committee may be elected by members of the Committee unless otherwise determined by Council. The Committee may appoint an Acting Chairperson in the manner in which the Chairperson is ordinarily elected or appointed. The election of the Chairperson is to follow the same procedure as for the election of the Mayor in Part 14.

The agenda for Special Committees will be relevant to the issues which are to be raised at the relevant meeting.

Minutes of meetings of Special Committees will be taken.

If the minutes of any meeting of a Special Committee include a recommendation to Council, the Chief Executive Officer must ensure that such recommendation is reported to the next convenient Council Meeting.

### **13.2 Submissions by public under section 223 of the Act**

A Special Committee must hear any person wishing to be heard in respect of their submission to Council under section 223 of the Act.

Committee members may question any submitter in relation to their submission.

Each speaker is allowed three minutes to speak to the matter listed on the agenda.

The Chairperson may use his/her discretion to allow an extension of time for up to a further one minute.

Anyone making a submission and not wishing to appear in person can be represented by another person in accordance with the Act. Submitters will be requested to disclose any personal or professional interests in the subject matter of their submission.

### **13.3 Other public submissions**

In addition to section 223 submissions under the Act, Special Committees may also hear submitters on any items listed on the Special Committee agenda where the person has made application to speak to an item in accordance with Council's procedures.

In respect of these submissions, the Chairperson may, in the case where there are several people representing a common position, encourage the submitters to nominate a single person to speak on the matter.

An individual can speak on behalf of themselves for up to three minutes and one other absent submitter for up to a further three minutes.

No person is permitted to speak on behalf of an absent submitter unless he/she is authorised in writing by the absent submitter to address Council on their behalf, such document to be tabled by the speaker. Any person so authorised may only read from a written statement prepared by the absent submitter.

## **14 Election of Mayor and Deputy Mayor**

### **14.1 Election of Mayor and Deputy Mayor**

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

The Councillors must elect a Councillor to be the Mayor at a Special Meeting specifically convened for the purpose and held in accordance with the Act as soon as possible after any vacancy in the office of the Mayor occurs.

The agenda for the meeting to elect the Mayor must include:

- a. the appointment of a temporary chairperson; and
- b. the election of the Mayor.

The Chief Executive Officer will be the first temporary Chairperson of the meeting at which the election of Mayor is to be conducted but will have no voting rights.

The Chief Executive Officer must invite nominations for a second temporary Chairperson. If there is only one nomination, the candidate nominated is deemed to have been elected. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates by show of hands and the candidate receiving a majority of the votes must be declared to have been duly elected.

The second temporary Chairperson must invite nominations for the office of Mayor.

If there is only one nomination (which must be seconded), the candidate nominated is deemed to be elected until the next Special Meeting held to elect the Mayor or the next general election (whichever happens sooner).

If there is more than one nomination (each of which must be seconded), a vote must be taken to elect one of the candidates by a show of hands. In the event of a candidate receiving a majority of the votes, that candidate is declared to have been elected.

In the event that no candidate receives a majority of the votes, the candidate with the fewest number of votes is declared to be a defeated candidate. A further vote will then be taken for the remaining candidates by show of hands.

If one (1) of the remaining candidates receives a majority of the votes, he or she is duly elected. If none of the candidates receives a majority of the votes, the process of declaring the candidate with the fewest number of votes a defeated candidate and voting for remaining candidates by a show of hands (or by such other method as Council determines) must be repeated until one (1) of the candidates receives a majority of the votes. That candidate must then be declared to have been duly elected.

In the event of two (2) or more candidates having an equal number of votes and one of them having to be declared:

- a. a defeated candidate (where there are three or more candidates with equal votes);  
or



- b. duly elected (where there are two candidates with equal votes),

the temporary Chairperson shall not have a second or casting vote, and the result will be determined by lot.

If a lot is required, the Chief Executive Officer will conduct the lot.

## **14.2 Mayor to take Chair**

After the election of the Mayor is determined, the Mayor must take the Chair.

The Mayor must take the Chair at all meetings of Council at which he or she is present, unless precluded from doing so because of a conflict of interest

## **14.3 Absence of Mayor or Chairperson**

If the Mayor is absent from a Council Meeting or is required to temporarily vacate the Chair under this Local Law, the Deputy Mayor, if any, shall take the Chair. If Council has not elected a Deputy Mayor, or the Deputy Mayor is absent from a meeting of Council, a temporary Chairperson shall be elected in accordance with the procedure for the election of the Mayor.

If the Chairperson of a Special Committee is absent from a Special Committee meeting or is required to temporarily vacate the Chair under this Local Law, then the temporary Chairperson shall be:

- a. the Mayor;
- b. the Deputy Mayor (if the Mayor is also absent); or
- c. if both the Mayor and Deputy Mayor are also absent, the Special Committee shall elect a temporary Chairperson in accordance with the procedure for the election of the Mayor.

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

If Council determines to elect a Deputy Mayor, Council must follow the procedure for the election of Mayor with such adaptations as necessary.

The Mayor shall take the Chair for the election of a Deputy Mayor.

## **15 The Common Seal**

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

The common seal is the corporate signature of Council, and exists in the form of a stamp. It evidences and authenticates decisions taken by Council.

### **15.2 Authority for use of Common Seal**

The common seal may be used only on the authority of Council or the Chief Executive Officer under delegation from Council.

### **15.3 Keeping of the Common Seal**

The Chief Executive Officer must keep the common seal securely at the Council's offices.

The Chief Executive Officer must keep a register of documents to which the common seal has been affixed.

### **15.4 Signatures to accompany Common Seal**

Every document to which the common seal is affixed must be signed by one Councillor and the Chief Executive Officer or some other Senior Officer authorised by the Chief Executive Officer.

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

Any person who uses the common seal or any device resembling the common seal without authority is guilty of an offence.

## **16 Offences and penalties**

It is an offence:

- a. for a Councillor to not withdraw a remark or make an apology when called upon twice by the Chairperson to do so;
- b. for any person, not being a Councillor, to interject, take part in any debate or in any other way interrupt the business of a meeting;
- c. for any person, not being a Councillor, to refuse to leave the meeting when requested by the Chairperson to do so;
- d. for any person to fail to obey a direction of the Chairperson relating to the conduct of the meeting and the maintenance of order;
- e. for a Councillor to refuse to leave the chamber on suspension;
- f. for any person to fail to obtain consent to the use of electronic recording equipment at a meeting or to continue to use the electronic recording equipment if consent has been revoked; and
- g. for any person to use the common seal or any device resembling the common seal without authority.

Each of these offences carries a maximum penalty of 20 penalty units.

Resolution for making this Local Law was agreed to by the Nillumbik Shire Council on:	Date
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and

The common seal of the Nillumbik Shire Council was affixed hereto on the day	Day/Month/Year
on the authority of the Council and signed by:	Councillor
	Chief Executive Officer