

# **Local Law Community Impact Statement**

**for**

## **City of Kingston Meeting Procedures Local Law 2017**

### **PART A – General Comments**

#### **Background**

Kingston City Council has undertaken a review of Local Law No. 7 – Meeting Procedures Local Law (the Local Law). The review has afforded Council with the opportunity to refine the Local Law and address any identified issues therein.

Benchmarking was undertaken against the corresponding Local Laws of different Victorian Councils to assess where Kingston's Local Law could be improved to better facilitate efficient decision making processes at Kingston City Council.

Consequently, a revised Meeting Procedures Local Law is proposed which incorporates proposed additions, amendments and deletions. These proposed changes have been collated in Part C of this document.

#### **Amendments:**

The proposed Local Law contains amendments to content, which are detailed in Part C of this document.

#### **Objectives:**

The overall objectives of the proposed Local Law are set out in the proposed Local Law.

The proposed Local Law was presented to the Ordinary Meeting of Council on 22 May 2017, at which Council endorsed the release of the draft for public exhibition for at least 28 days. The public consultation will open on 1 June 2017 and close 29 June 2017 inclusive. During this time the community are invited to make written submissions as per the requirements of section 119 and section 223 of the Local Government Act 1989.

If a person wishes to be heard in support of their submission, they can appear in person before a meeting of the committee on Tuesday 4 July 2017 commencing at 5.30pm. A representative of a submitter may also appear on their behalf

Following consideration of all submissions, it is proposed that the City of Kingston Community Local Law will be presented to Council for adoption at a Meeting of Council in July 2017.

## PART B – Comments on proposed Local Law overall

<b>Measures of success of proposed Local Law</b>	<b>Council will measure the success of the Local Law as follows:</b>
Existing legislation that might be used instead	There is no existing legislation that could be used instead of the proposed local law.
State legislation more appropriate	Not applicable. State Legislation compels Council to make local laws governing the conduct of meetings of the Council and special committees.
Overlap of existing legislation	Not applicable. It is not considered that the proposed local law overlaps existing legislation, rather it operates in conjunction with the requirements of the Local Government Act 1989 (Vic).
Overlap of planning scheme	Not applicable.
Risk Assessment	Council does not believe there are any risks associated with the proposed Local Law.
Legislative Approach adopted	<p>The Meeting Procedures Local Law is necessitated by the provisions of the Local Government Act 1989.</p> <p>In relation to conduct of meetings, the Local Law adopts a medium impact regulatory approach. Whilst being largely prescriptive, the Local Law retains a level of discretion which is considered appropriate to facilitate the orderly conduct of meetings.</p> <p>In relation to the election of the Mayor, the Local Law adopts a high impact regulatory approach that is highly prescriptive with no discretionary process. This is considered appropriate as it provides certainty and transparency to candidates and the community and ensures elections are conducted in a fair and equitable manner.</p> <p>In relation to use of the Common Seal, the Local Law adopts a high impact regulatory approach that is considered appropriate as it provides clear accountability for appropriate use and safekeeping of the Council seal.</p>
Restriction of competition	Not applicable.
Penalties	<p>Penalties are proposed for particular breaches of the provisions of the Local Law. These have all been reviewed however no changes were considered appropriate.</p> <p><b>Infringement Penalty</b> An infringement penalty is the penalty which appears on an Infringement Notice (i.e. “ticket”). The infringement penalties for breaching the various offences contained in the draft Local Law are</p>

	<p>contained in clause 40 of the Local Law.</p> <p>The Victorian Attorney-General's guidelines to the <i>Infringements Act 2006</i> state that, '<i>An infringement penalty should generally be approximately no more than 20 – 25% of the maximum penalty for the offence</i>'.</p> <p>Council accepts that this is an accurate guide where the agency has freedom to set the maximum penalty.</p>
Permits	Not applicable.
Fees	Not applicable.
Performance Standards or prescriptive	Drafting of the Local Law has adopted a prescriptive approach.
Comparison with neighbouring and like Councils	In drafting the Local Law, comparisons were with 20 other Victorian Councils ranging from municipal shires to metropolitan Councils.
Charter of Human Rights	<p>The Charter of Human Rights and Responsibilities Act 2006 (Vic) (the Charter) applies to all subordinate legislation (Local Laws). Under Schedule 8.2 of the Local Government Act 1989 (Vic):</p> <p><i>A local law must not -</i></p> <p><i>(j) be inconsistent with principles of justice and fairness;</i></p> <p>Having reviewed the Local Law as a whole, Council is satisfied that the proposed Local Law will be consistent with the Charter.</p>
Consultation meetings	Not applicable. No consultation meetings were held during the drafting of the proposed Local Law.
Submissions	<p>The public consultation will open on 1 June 2017 and close on 30 June 2017. During this time the members of the community are invited to make written submissions as per the requirements of section 119 and section 223 of the Local Government Act 1989. If a person wishes to be heard in support of their submission, they can appear in person before a meeting of the committee on Tuesday 4 July 2017 commencing at 5.30pm. A representative of a submitter may also appear on their behalf</p>

## **PART C - Comments on specific parts or provisions of the proposed Local Law**

Major and minor content issues have been addressed in the proposed Local Law. All content changes have been broken down clause by clause in the following table, however major content changes include:

### **Notices of Motion**

A new clause has been drafted requiring a Notice of Motion to call for a Council report in the circumstances where the Notice of Motion would substantially affect the level of Council services, commit Council to expenditure in excess of \$25,000 not included in the adopted budget, establishes or amends a Council policy or commits the council to any contractual arrangement as determined by the Chief Executive.

This approach is considered to be a worthwhile inclusion in Council's Local Law as it ensures all Councillors are appropriately briefed on matters before committing substantial council funds or resources to any given project.

### **En Bloc Resolutions**

A new clause has been drafted providing for the use of en bloc resolutions in the proposed Local Law. However, this clause is qualified by precluding planning matters and matters involving statutory third party appeal rights.

<b>Clause(s), section or part of Local Law and Description/heading</b>	<b>The problem the provision is intended to address</b>	<b>Outcome</b>
Clause 9(7)(e) – Election of the Mayor	Use of term ‘absolute majority’ inconsistent with the Act.	Amendment of clause 9(7)(e) to read: In the event that no candidate receives a <i>majority</i> of the votes....
Clause 16(3) – Order of Business	No process for amending the order of business.	Inclusion of clause 16(3) to read: Once an agenda has been prepared and sent to Councillors, the order of the business for that Meeting may only be altered by resolution of Council. This includes the request for an item to be brought forward.
Clause 18(2)(b) – Public Question Time	Time for question to be submitted is too late.	Amendment of clause 18(2)(c) to read: Placing a hard copy question form in the Question Box situated in the Council Chamber foyer by 7.30pm on the day of an Ordinary Meeting.
Clause 18(5) and 18(6) – Public Question Time	Public Question time process required streamlining	Number of questions permitted to be submitted by an individual reduced to three.  Addition of clause 18(6): Any preamble to a question will not be read out unless the Chairperson considers it appropriate
Clause 19(2) – Petitions and Joint Letters	No reference to electronic petitions.	Inclusion of clause 19(2) to read: The Council may by resolution accept electronic petitions received via online websites if it is satisfied that the petition is authentic from a legitimate website.
Clause 19(3) – Petitions and Joint Letters	Specifies that a petition addressed to any member personally must be referred to the CEO. This does not accommodate for petitions sent to Council, which is the general practice.	Amendment of clause 19(3) to read: A petition or joint letter addressed to Council or any member personally which requires a decision of or direction from the Council must be referred to the Chief Executive Officer.

<b>Clause(s), section or part of Local Law and Description/heading</b>	<b>The problem the provision is intended to address</b>	<b>Outcome</b>
Clause 21 – Time Limits for Meetings	To improve the efficiency of Council meetings while continuing to allow for extended debate when required.	<p>Amendment of Clause 21(1) to read:</p> <p>Subject to sub-clause (2) a Council meeting must conclude no later than <i>three</i> hours after the commencement of the meeting.</p> <p>Amendment of Clause 21(2) to read: A Council meeting may be extended beyond <i>three</i> hours by resolution.</p>
Clauses 27(5) and 27(6) – Procedures with Respect to Motions	Confusion regarding situation where a motion differs from the recommendation in the agenda.	<p>Inclusion of clause 27(5) and 27(6):</p> <p>(5) Where the mover intends to move a recommendation as it appears in the agenda, they may do so in the following manner, “I move the recommendation on page (state page number) of the agenda.”</p> <p>(6) Where the mover intends to move a motion other than a recommendation as it appears in the agenda, they must state the motion in full.</p>
Clause 30(1)(c) – Notices of Motion	Current protocols regarding earlier submission of Notices of Motion not codified in the Local Law.	<p>Amendment of clause 30(1)(c) to read: A notice of motion must be lodged with the Chief Executive Officer by 12.00 noon seven (7) days before the date of the Council meeting nominated in the notice of motion.</p>
Clause 30(7) – Notices of Motion	No restrictions on Notices of Motion that impact on matters such as Council budget and services.	<p>Inclusion of clause:</p> <p>A Notice of Motion must call for an officer report if the Notice of Motion:</p> <ol style="list-style-type: none"> <li>a. substantially affects the level of Council services;</li> <li>b. commits the Council to expenditure in excess of \$25,000 and that has not been included in the adopted budget;</li> <li>c. establishes or amends a Council policy; or</li> <li>d. commits the Council to any contractual arrangement, as determined by the Chief Executive.</li> </ol>

<b>Clause(s), section or part of Local Law and Description/heading</b>	<b>The problem the provision is intended to address</b>	<b>Outcome</b>
Clause 30(8) – Notices of Motion	No restrictions on re-submitting a Notice of Motion once lost.	Inclusion of clause 30(8) to read:  If a Notice of Motion, whether amended or not, is lost, a similar motion cannot again be put before the current Council for a period of three calendar months from the date it was lost.
Clause 33(2) - 33(6) – Formal/Procedural Motions	No definition of a procedural motion.	Inclusion of clauses 33(2) - 33(6) to read: <ol style="list-style-type: none"> <li>2. A formal/procedural motion is one that deals with the conduct or process of the meeting itself.</li> <li>3. A substantive motion is a motion that deals with matters other than the conduct or process of the meeting itself.</li> <li>4. Formal/Procedural Motions have precedence on substantive motions and amendments.</li> <li>5. A formal/procedural motion must be dealt with immediately by the Chairperson.</li> <li>6. Except for a formal/procedural motion to defer an item, a procedural motion, once moved and voted upon has no bearing on any substantive motion currently before the Council.</li> </ol>
Clause 33(7) – Formal/Procedural Motions	Lack of clarity regarding debate and right of reply on Procedural Motions.	Inclusion of clause 33(7) to read: Subject to Schedule 1, debate on a procedural motion is not permitted and the mover does not have a right of reply.
Clause 34(1) and 34(2) – Block Resolutions	No reference in Local Law to block resolutions.	Inclusion of clauses 34(1) and 34(2) to read:  34 En Bloc Resolutions  (1) Subject to clause 34(2) Council may consider agenda items en bloc, so long as the motion to hear the items en bloc is firstly moved, seconded and approved by a majority vote.  (2) Items that relate to planning matters or that involve statutory third party appeal rights must not be considered en bloc.



<b>Clause(s), section or part of Local Law and Description/heading</b>	<b>The problem the provision is intended to address</b>	<b>Outcome</b>
Schedule 1	No reference to whether debate permitted.	Inclusion of column titled 'Debate Y/N' – This will outline which procedural motions may be debated at a meeting.
Schedule 1 – Section 1 and 2	Use of term 'adjournment of debate' when the term commonly used for such procedural motions in the Chamber is 'deferral'.	Replace word 'adjournment' with 'deferral' where necessary.