

## **4 AMENDMENT TO MEETING PROCEDURE LOCAL LAW**

FILE REFERENCE INT1862655

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### **RECOMMENDATION**

That

1. Council proposes to make Local Law 19, Meeting Procedure (Amendment) Local Law 2018 to amend Council's Meeting Procedure Local Law and undertake the statutory procedures required. In accordance with Sections 119 and 223 of the Local Government Act 1989
2. The chief executive officer be authorised to set the day, time and place for the hearing of any submissions received in accordance with Section 223 of the Local Government Act 1989
3. Resolve to rescind Notice of Motion 756 that stipulates that at least one council meeting (where practicable) will be held in all wards during a calendar year.

### **Attachments**

[1↓](#) Meeting Procedure Amendment Local Law 3 Pages

### **EXECUTIVE SUMMARY**

Following Council's decision to webcast Council Meetings, it is considered necessary to amend the Meeting Procedure Local Law to remove the provision for persons asking Community Questions to also ask a supplementary question and to remove the requirement to hold Council Meetings away from the Civic Centre Council Chamber.

### **BACKGROUND**

Council has committed to the live webcasting of Council Meetings, and has acknowledged that there are risks associated with this from potential claims for libel and slander (defamation) arising from comments made at such meetings. The webcasting of Council meetings increases the possible risk of council, councillors, staff and the public being sued for comments made at these meetings. This being caused by the much larger audience created by the web cast.

The issues involved being:-

- Councillors and Officers can rely on the defence of qualified privilege to defend any actions brought against them for comments made at these meetings. This defence is lost however if the comments were motivated by malice where the person did not have an honest belief in the truth of what was stated.
- This defence is not lost by the webcasting of the meeting.
- The webcasting does expose a councillor or staff member to a possible action of defamation by the publishing of the webcast, as it is the publication of the insult or thing said that is actionable.
- The increased risk is created due to the much wider audience created by the webcasting. Obviously if comments are made at a meeting with no public gallery and the meeting is not

webcast and the comments made receive no publicity it is unlikely that any action would be brought.

- In addition the archiving of the meetings would allow such a record to be used in evidence if an action was brought.

There is a risk associated with allowing supplementary questions during Community Question time as the Council is not aware of what comments may be made during such a supplementary question. If these comments defame a person or are such that a third party takes objection to them the Council may be considered complicit in the matter as it has allowed these comments to be broadcast live over the internet. If Council wishes to remove this risk then Clause 59 of the Meeting Procedure Local Law should be removed.

Notice of Motion 756 was adopted by the Council in January 2013, the motion read

*That Council will have at least one council meeting (where practicable) in all Cardinia Shire Council wards during a calendar year.*

This motion was intended to take Council Meetings to the public particularly in towns some distance from the then Shire Office in Pakenham. It is considered that this requirement is no longer relevant as the webcasting of meetings takes these into the homes of any interested persons. On that basis, this requirement is no longer necessary.

## **POLICY IMPLICATIONS**

Nil

## **RELEVANCE TO COUNCIL PLAN**

Webcasting of Council Meetings is relevant to the Council Plan goals included in the 'Our Governance' section of the Council Plan leading to an engaged community and open governance.

## **CONSULTATION/COMMUNICATION**

Amending the Meeting Procedure Local Law requires public notice of the proposal to appear in the Government Gazette and in a newspaper circulating within the municipality. This public notice will give any interested person the opportunity to provide their comments to the Council. Any persons that wish to be heard in support of their submission will be given the opportunity to address the Council in support of their submission.

## **FINANCIAL AND RESOURCE IMPLICATIONS**

There are no financial or resource implications associated with this matter.

## **CONCLUSION**

It considered appropriate to amend the Meeting Procedure Local Law to remove Clause 59 relating to supplementary questions during Community Question time and to rescind Notice of Motion 756.



**LOCAL LAW NO. 19**

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**MEETING PROCEDURE (AMENDMENT) LOCAL LAW 2018**

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**CARDINIA SHIRE COUNCIL**

**LOCAL LAW NO 19**

**MEETING PROCEDURE (AMENDMENT) LOCAL LAW 2018**

**PART 1 - INTRODUCTORY**

**1. Title and Purpose of Local Law**

This is the "Meeting Procedure (Amendment) Local Law 2018" (Local Law No. 19), the purpose of which is to amend Council's Meeting Procedure Local Law (Local Law No.16) to:

1.1 Remove the provision for supplementary questions during Community Question Time.

**2. Authorising Provision**

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

**3. Commencement**

This Local Law comes into operation the day after notice of its making appears in the Victorian Government Gazette.

**4. Application**

This Local Law applies and has operation throughout the whole of the municipal district.

**5. Revocation**

This Local Law ceases to operate on the day on which Council's Meeting Procedure Local Law (Local Law No.16) ceases to operate.

**6. Definitions**

"Principal Local Law" means Council's Meeting Procedure Local Law (Local Law No. 16).

**PART 2 – AMENDMENTS TO DIVISION 6**

**7. Community Question Time**

Clause 59 - Supplementary questions is deleted.

This Local Law was made by resolution of the Council on \*\*\*\*

Public notice of the making of Local Law 13 appeared in the *Ranges Trader Mail* on \*\*\*\*, *Pakenham Gazette* on \*\*\*\*\*, *Pakenham Cardinia Leader* on \*\*\*\*\* and in the *Victoria Government Gazette* on \*\*\*\*\*.