

South Gippsland Shire Council

Local Law Community Impact Statement – September 2020

Proposed: Repeal and Amendment of clauses in 'Local Law No.2 2020 – Processes of Municipal Government and Common Seal'.

Council provides the following information to the community in respect of the repeal of major sections of the meeting procedures and minor amendments to several retained clauses of Local Law No.2 2020 – Processes of Municipal Government - Meeting Procedure and Common Seal (Local Law No.2).

Part A – General Comments

Background

The Local Government Act 2020, (2020 Act) has played a major influencing part in the changes required to Local Law No.2. 2020. Governance Rules are required to be adopted to replace meeting procedures within current local laws. Council adopted new Governance Rules on 26 August 2020, resulting in the majority of clauses contained in current Local Law No.2 becoming redundant. The Governance Rules incorporate the key requirements and directions of the 2020 Act.

A local law that has not reached its sunset/end date, can only be removed completely either by replacing it with another local law or incorporating it into another local law. Local Law No.2 2020 will not reach its sunset until June 2030. In the interim, it is planned to repeal redundant sections/clauses and make minor amendments to several remaining clauses to position it for the following ten years.

Council may consider incorporating the remaining clauses into the General Local Law, when this is reviewed within the next five years.

Objectives

The objectives of this Local Law No. 2 review are to:

1. Repeal extensive sections of Local Law No.2 made redundant through the adoption of Governance Rules in August 2020;
2. Retain some clauses without change;
3. Make minor amendments to several 'Infringement Notices' clauses – Clauses 108 and 109, to align these clauses so they remain current at all times with the *Infringements Act 2006*. This reduces the likelihood of Local Law No.2 2020 being worded contrary to a related piece of legislation.

The retained '*Objectives in Local Law No.2 2020*' are to:

- a. to regulate and control the procedures governing the conduct of meetings;
- f. to provide for the administration of the Council's powers and functions;
- g. to provide generally for the peace, order and good government of the municipal district; and
- h. to repeal any redundant Local Laws.

Part B – Comments on proposed amendments to the Local Law and repeal of redundant sections

Measures of success of proposed Local Law	Council will measure the success of the proposed revised Local Law No. 2 2020 by the extent to which Council is able to regulate and control the procedures governing the conduct of Council Meetings and Delegated Committee Meetings.
Existing legislation that might be used instead	The <i>Crimes Act 1958</i>
State legislation more appropriate	The Local Government Act 1989 and the Local Government Act 2020
Overlap of existing legislation	Council considers the provisions of the proposed revised Local Law No.2 will supplement the <i>Local Government Act 1989</i> and the <i>Local Government Act 2020</i> , that are not able to be adequately covered within the Governance Rules.
Risk assessment	The proposed revised Local Law No.2 2020 review seeks to check and correct any identified misalignment with current legislation, particularly the <i>Local Government Act 1989</i> , the <i>Local Government Act 2020</i> , the <i>Infringements Act 2006</i> and the <i>Charter of Human Rights</i> to mitigate the risk of non-compliance with legislation and poor meeting procedure protocols.
Legislative approach adopted	The proposed revised Local Law No.2 2020 seeks to ensure Council meets current legislative provisions.
Restriction of competition	This component is not relevant to the proposed revised Local Law No.2 2020, as it does not have any impact on competition.
Penalties	Two penalties previously applied under the Local Law No. 2 2020, remain unchanged, while two penalties relating to the Common Seal have been removed.
Performance standards or prescriptive	The proposed revised Local Law No.2 2020 contains elements of performance standard requirements for participants attending or informing Council meetings and Delegated Committees. The majority of clauses retain prescriptive elements. This is due to the nature of this Local Law being procedural in its entirety and setting out processes to govern meetings and associated administrative requirements.
Comparison with neighbouring and like councils	<p>Comparisons have been made with the practices and procedures of many Victorian Council's. Other Victorian Councils will be reviewing and amending their meeting procedure local laws once their Governance Rules are adopted.</p> <p>Community feedback and consideration of sector interests were considered in the development of the Governance Rules, which now contain the majority of meeting procedure requirements formerly contained in Local Law No.2 2020.</p>
Charter of Human Rights	The proposed revised Local Law No.2 2020 has been reviewed to be compatible with the Charter of Human Rights.

Consultation meetings

The State Government has conducted extensive consultation sessions in the development of the Local Government Act 2020 and in co-design support for the development of Governance Rules. Council's lawyers also provided for the development of Governance Rules. The proposed revised Local Law No.2 2020 benefits from the outcomes of these sector-based consultations.

Submissions

The community will be invited to provide submissions on the new proposed revised Local Law No.2 2020 through a formal s.223 public consultation process under *the Local Government Act 1989*. This will occur once the propose revised Local Law is endorsed by Council in September 2020 and gazetted for consultation purposes. Submissions are to be submitted by 5.00pm on Thursday 29 October 2020.

Part C – Comments on specific Parts or Provisions of the Proposed Local Law

Clause(s), section or part of Local Law	Objectives (a) to (c) and (e), Clauses 6 to 100, 102, 104, 106, 107 and Schedule 1
Description or heading(s)	Objectives (a) to (c) and (e), Clauses 6 to 100, 102, 104, 106, 107, Schedule 1 and some definitions have all been endorsed for repeal
The problem the provision is intended to address	The objectives and clauses are no longer required in Local Law No.2 2020, as they are contained in the Governance Rules adopted by Council 26 August 2020. These clauses are now redundant.
Description of the problem	The removal of redundant clauses in the revised Local Law No. 2 2020, has been endorsed to comply with legislative requirements in the Local Government Act 2020.
Council objective	Customer Focused Organisation
Where is the Council's objective set out?	Council Plan 2020-2024
How does the proposed Local Law provision help achieve objectives?	Strategy 4.2 Review and implement changes to Council plans, policies and practices to align with the new Local Government Act and the Commission of Inquiry recommendations.

Clause(s), section or part of Local Law	Remaining clauses have been retained, amended slightly and added to.
Description or heading(s)	Definition - Act Clause 108 (a) amended Clause 109 (c) amended Clause 109 (d) and (e) added Schedule 2 – amended.
The problem the provision is intended to address	These clauses and schedules required some refinements to allow for long term currency with the <i>Infringements Act 2006</i> and tidying up administrative components due to the repeal of other clauses.
Description of the problem	Definition – Act – expanded to encompass the <i>Local Government Act 2020</i> . Clause 108 (a) amended to align the <i>Infringements Act 2006</i> thereby ensuring greater currency between the Local Law and this Act over the longer term. Clause 109 (c) amended to align the <i>Infringements Act 2006</i> thereby ensuring greater currency between the Local Law and this Act over the longer term. Clause 109 (d) and (e) added to include greater awareness of options available to people issued with fines to seek a payment plan or an internal review. Schedule 2 – amended to remove two penalties now not applicable relating to the Common Seal. The remaining two penalties have been reordered to improve the administrative flow of the schedule and align the wording of the penalty with Clause 103.
Council objective	Customer Focused Organisation
Where is the Council's objective set out?	Council Plan 2020-2024
How does the proposed Local Law provision help achieve objectives?	Strategy 4.2 Review and implement changes to Council plans, policies and practices to align with the new Local Government Act and the Commission of Inquiry recommendations.