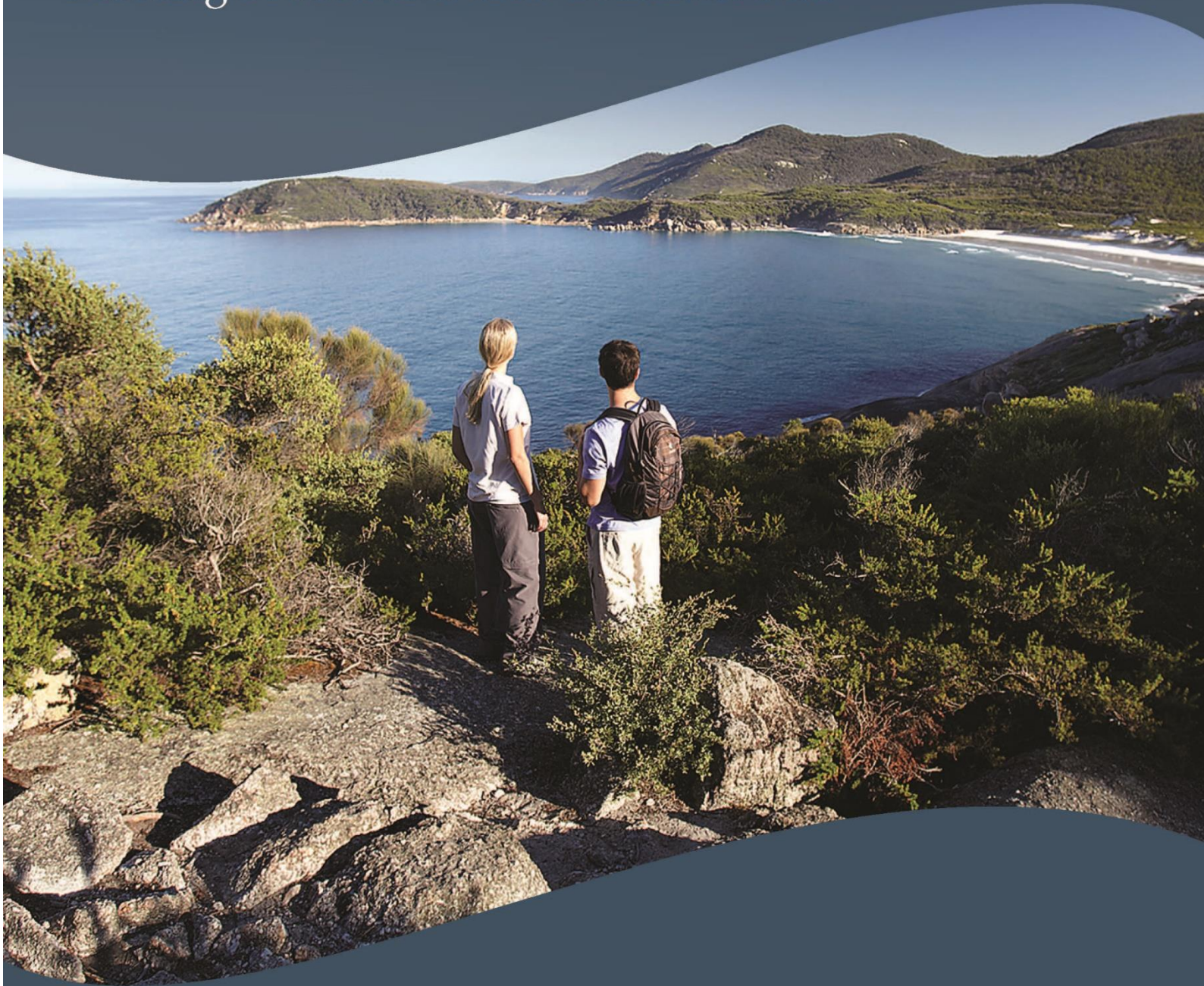


SOUTH GIPPSLAND SHIRE COUNCIL

# Local Law No.2 2020

## Processes of Municipal Government

### Meeting Procedures and Common Seal



*South Gippsland  
Shire Council*

PROPOSED

# LOCAL LAW NO. 2 2020

PROCESSES OF MUNICIPAL GOVERNMENT  
(Meeting Procedures and Common Seal)

## CERTIFICATION:

This Local Law was made by Council on DAY XX Month 2020

The Local Law was gazetted on DAY XX Month 2020 and become operational on DAY XX Month 2020.

Common Seal of South Gippsland Shire Council was affixed to this Local Law by the Chief Executive Officer, Kerry Ellis on DAY XX Month 2020.

## COMMON SEAL STAMP

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## PART 1 – PRELIMINARY

### 1. Title

This Local Law is the Council's Processes of Municipal Government **Local Law No.2 2020** and referred to below as this Local Law.

### 2. Objectives of this Local Law

The objectives of this Local Law are to:

- a. provide a mechanism to facilitate the good government of the South Gippsland Shire Council through its formal meeting procedure to ensure effective and efficient Council decisions are made in a manner which acknowledges the role of local government within the Australian system of Government;
- b. to promote and encourage community participation in the system of local government by providing mechanisms for the Council to ascertain the community's views and expectations;
- c. to regulate and control the election of the Mayor, Deputy Mayor and the Chair of any Special Committees;
- d. to regulate and control the procedures governing the conduct of meetings including:
  - i. the notice required for meetings; and
  - ii. the keeping of minutes;
- e. to regulate and control the use of the Council's seal;
- 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.

### 3. The power to make this Local Law

The Council's power to make this Local Law is contained in sections 5, 91 and 111 of the Local Government Act 1989.

## 4. Commencement and Revocations

This Local Law comes into operation on the date when it is advertised in the Government Gazette and ceases to operate 10 years from that date unless it is sooner revoked by Council. On commencement of this Local law, Local Law No.3 2010 will be revoked.

## 5. Definitions

In this Local Law, unless inconsistent with the context:

Title	Definition
Act	Means the Local Government Act 1989.
Allowance	As described in the Local Government Act 1989.
Authorised Officer	As described in the Local Government Act 1989.
Chair	The person who chairs a meeting of the Council or Special Committee of the Council.
Chief Executive	Means the Chief Executive Officer appointed by the Council, in accordance with the Local Government Act 1989, or other officer acting in that position.
Council	Means the South Gippsland Shire Council.
Councillor	Means a person who is an elected member of the Council.
Council Meeting	Includes Ordinary and Special meetings of the Council.
Deputy Mayor	Means a Councillor who may be elected pursuant to Clause 7 of this Local law who may take precedence and perform any function of or exercise any power conferred on the Mayor if the Mayor is unable or incapable of undertaking the role of Mayor for the period of the time the Mayor is incapable or unable. The Deputy Mayor will be the Acting Mayor for the purposes of the Act. The position of Deputy Mayor does not receive any allowance in addition to that which they are entitled to under Section 74 of the Local Government Act 1989.
Division	Means a formal count of those for and those against a motion generally to remove any doubt as to whether the motion is supported or opposed.
Formal 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.

Title	Definition
Mayor	Means the definition of Mayor in the Local Government Act 1989.
Member	Refers to a person who is entitled to vote at a meeting of the Council or a Special Committee of the Council.
Minister	Means the Minister responsible for administering the Local Government Act 1989.
Penalty	Means a fine or other monetary penalty and includes an amount payable under an Act or regulation in respect of an offence for which an infringement notice can be issued under the relevant Act or regulation.
Penalty Unit	Has the meaning ascribed to it by Section 110 of the Sentencing Act 1991.
Public Notice	Means 'Public notice' as defined in Section 3 of the Local Government Act 1989.
Procedural Motions	Any motions that guide or direct the business of the Council provided for in clauses 76 to 81 inclusive of this Local Law.
Quorum	Means the minimum number of members of a Council or of a Special Committee of Council required by this Local Law to be present in order to constitute a valid meeting of the Council or the Special Committee respectively.
Regulations	Means <del>all current</del> Local Government Regulations <del>2001</del> .
Replica	In relation to the common seal of the Council means any representation which purports to be, looks like or is capable of being mistaken for the common seal whether fixed to or printed on a document or advertisement or sign and includes any use of a symbol resembling the common seal which is capable of misleading a person into believing it is used with the authority of the Council.
Returning Officer	Means Chief Executive Officer as defined in this Local Law or an independent qualified or experienced person appointed by the Chief Executive <del>Officer</del> .
Senior Officer	Has the same meaning as "Senior officer" as defined in section 3 of the Local Government Act 1989.

Title	Definition
Statutory Meeting	Means a special meeting of Council held for the purpose of electing a Mayor and other Chairs and the taking of Oaths of Office and fixing of allowances.
Statutory year	Means the period commencing 1 July and finishing 30 June in any year (unless otherwise stated).
Suspension of Standing Orders	Means the suspension of the provisions of this Local Law to facilitate full discussion on an issue without formal constraints.
Temporary Chair	Means the Chief Executive <b>Officer</b> , or his/her nominee, who until the Mayor is elected will preside at the Statutory Meeting.

## PART 2 – STATUTORY MEETING, ELECTION OF MAYOR, TAKING OATH OF OFFICE AND FIXING OF ALLOWANCES

### 6. Meeting to elect the Mayor

- a. The meeting to elect the Mayor will be held:
  - i. ~~after the fourth Saturday in October but not later than 30 November in each year: or as soon as possible after the last Saturday in November but not later than 31 December in each year; or~~
  - ii. if under subsection (d), the Mayor is elected for a term of 2 years, the next mayoral election is 2 years after the fourth ~~last Saturday in November but not later than 31 December~~ **Saturday in October, but not later than 30 November** in the second year after the election; or
  - iii. as soon as possible after any vacancy in the office of Mayor occurs.
- b. The meeting to elect the Mayor is a Special Meeting of Council, known as the Statutory Meeting and must be open to members of the public.
- c. The agenda for the meeting to elect the Mayor may include:
  - i. The taking of the oath of office **and the declaration to abide by the Councillor Code of Conduct** by each Councillor, under Section 63 of the Act;
  - ii. The fixing of allowances for the Mayor and Councillors under Section 74 of the Act; and
  - iii. The appointment of Councillor representatives to various bodies.
- d. Council may resolve to elect the Mayor for a term of 2 years at the Special Meeting of Council prior to nominations being called for by the Temporary Chair. If no such resolution is passed the term of the Mayor remains at 1 year.
- e. Council may by resolution agree to elect a Deputy Mayor.
- f. The election of Deputy Mayor will take place immediately after the election of the Mayor.

- g. Any election by Council of a Deputy Mayor will follow the same procedure as that for the election of the Mayor.

## 7. Election of Mayor and Deputy Mayor

- a. The Temporary Chair will preside at the Statutory Meeting until the Mayor is elected.
- b. The election of Mayor will be supervised by the Returning Officer.
- c. All Councillors are eligible to stand for election or re-election to the office of Mayor.
- d. Nominations for the position of Mayor will be made in accordance with the following procedure:
  - i. Nominations may be made by any Councillor for any Councillor.
  - ii. Nominations may be submitted in writing prior to the meeting or verbally when called to do so by the Temporary Chair.
  - iii. Nominations made at the meeting are not required to be in writing and no seconder is necessary.
  - iv. All nominees will clearly indicate their acceptance of the nomination.
  - v. Any nominees not present at the meeting held to elect the Mayor, must have provided their acceptance in writing to the Chief Executive Officer, prior to the meeting.
  - vi. Once nominations have been accepted, all Councillors contesting the election of the Mayor shall be known as candidates.
  - vii. The Temporary Chair will call for final nominations prior to the vote being conducted and upon receiving no further nominations will declare nominations closed.
  - viii. Any Councillor can withdraw their candidature at any time.
- e. Candidates may address Council for up to five minutes prior to the vote for the election of Mayor being conducted.
- f. Voting for the position of Mayor will be conducted in accordance with the following procedure:

- i. Each time a vote is required to be taken, Councillors shall clearly indicate their choice by show of hands. All votes must be recorded in the minutes.
- ii. If when calling for nominations for the office of Mayor there is only one nomination, the Temporary Chair will declare the candidate nominated to be duly elected.
- iii. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates. ~~Councillors have no right to abstain.~~
- iv. In the event of a candidate receiving an absolute majority of the votes (being more than half of the votes cast), the Temporary Chair will declare the candidate to be duly elected.
- v. In the event of no candidate receiving an absolute majority of the votes the Temporary Chair will declare the candidate with the fewest number of votes to be a defeated candidate.
- vi. If because of an equality of votes no candidate can be declared to be a defeated candidate a further vote will be taken. If after the further vote there is still an equality of votes and no candidate can be declared to be a defeated candidate, the defeated candidate shall be determined by lot. In conducting the lot the names of all candidates that have the least number of votes shall be placed in a container. The first name drawn by the Returning Officer will be deemed to be the defeated candidate.
- vii. If after the procedure in the previous clause is followed one (1) of the remaining candidates receives an absolute majority of the votes, he or she must be declared to have been duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidate with the fewest number of votes a defeated candidate and voting for the remaining candidates (as indicated in sub-clause i g) must be repeated until one (1) of the candidates receives an absolute majority of the votes. That candidate must be declared to have been duly elected.
- viii. In the event of two (2) remaining candidates having an equality of votes a further vote will be taken. If after the further vote there is still an equality of votes, the result will be determined by lot. In conducting the lot, the names of the remaining candidates, having an equality of votes, will be placed in a container. The first name

drawn by the Returning Officer will be deemed to have been duly elected.

- ix. The Temporary Chair will announce the duly elected Mayor and invite the Mayor to address Council for not more than five minutes.

## PART 3 - COUNCIL MEETINGS

### Division 1 - Notices and Agendas

#### 8. Dates and Times of Meetings

- a. The date, time and place of all Council meetings are to be fixed by the Council from time to time.
- b. Council must give public notice of the holding of an Ordinary meeting, a Special meeting of the Council or a Special Committee meeting that is comprised solely of Councillors in accordance with Section 89 of the Local Government Act 1989

#### 9. Council may alter meeting dates

- a. The Council may change the date, time and place of any Council meeting which has been fixed and must provide reasonable notice of the changes to the public.
- b. Where a Council agenda item is identified that would benefit from being considered at a Council meeting outside the previously agreed location, the Chief Executive **Officer** must endeavour to provide a report to a Council meeting with a minimum four (4) weeks notice to allow the proposed meeting location to be endorsed by Council. In urgent or extraordinary circumstances where a matter relates to a legal proceeding or other process that is not readily amended, impacts a sizeable proportion of the community in a particular locality or has been the subject of specific representations to Council the Chief Executive **Officer** may make necessary arrangements and provide reasonable notice to the public via local newspapers, Council website and where possible by direct mail.
- c. In urgent or extraordinary circumstances where the following applies:
  - i. Matter relates to a legal proceeding or other process that is not readily amended;

- ii. Impacts a sizeable proportion of the community in a particular locality;
- iii. Has been the subject of specific representations to Council.
- d. Authorises the Chief Executive Officer to make necessary arrangements and provide reasonable notice in accordance with clause 8 above.

## 10. Special Council Meetings

Special Council Meetings must be called in accordance with Section 89 of the Local Government Act 1989

## 11. Notice of meeting

- a. A notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be served on every Councillor:
  - i. For an ordinary meeting at least 48 hours before the meeting; and
  - ii. For a Special Meeting, within a reasonable time before the meeting;
  - iii. For a Special Committee meeting, within a reasonable time before the meeting.
- b. The notice of agenda for any meeting must state the date, time and place of the meeting and the business to be dealt with and must be sent by post, facsimile, email or otherwise delivered to each Councillors' place of residence or usual place of business (if applicable) or as otherwise specified by the Councillors.
- c. A notice may be handed personally to a Councillor in any location within the time required, or may be delivered to another destination, provided a written authorisation of the relevant Councillor is held by the Chief Executive Officer.

## 12. Leave of Absence

It will not be necessary for a notice of meeting or agenda to be served on any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting to be held during the period of his or her absence.

### 13. Special (Emergency) Meetings

- a. In the case of an emergency, the Chief Executive Officer or, in his or her absence, a senior officer nominated by the Chief Executive Officer, may call or postpone a meeting of the Council, without the necessity to comply with clauses 9 to 12 provided reasonable attempts are made to notify every Councillor.
- b. The Chief Executive Officer or senior officer must submit a full written report of the circumstances requiring his or her action to the next ordinary meeting of the Council.

### Division 2 - Quorums

#### 14. Ordinary Council Meetings

The quorum required for Ordinary Council meetings will be a majority of the councillors capable of being elected to that Council as prescribed in Section 29 of the Act.

#### 15. Special Council Meetings

Subject to clause 18, the quorum required for Special Council meetings will be the same as for an ordinary meeting.

#### 16. Special Committee Meetings

The quorum for a Special Committee meeting will be determined by the Council for each committee, but in the absence of the Council's determination, the quorum required will be not less than a majority of the members for the time being appointed to that committee.

#### 17. A Special (Emergency) Meeting

In the case of an emergency where the Chief Executive Officer, or in his or her absence a senior officer, has acted under clause 13(a) the quorum for a special (emergency) meeting will be not less than three Councillors.

#### 18. Inability to Gain a Quorum

If a quorum cannot be obtained within thirty (30) minutes of the scheduled starting time of any meeting or adjournment those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or in his or her absence, a senior officer may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

## 19. Inability to Maintain a Quorum

If during any meeting or any adjournment of the meeting, a quorum cannot be achieved and maintained, those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or in his or her absence, a senior officer may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.

## 20. Inability to Achieve or Maintain a Quorum due to Conflicts of Interest of Councillors

If during any meeting or adjournment a quorum cannot be achieved or maintained due to the number of declarations of conflict of interest by Councillors, the Chief Executive Officer, or in his or her absence, a senior officer may adjourn the meeting for a length of time sufficient to enable an exemption for the affected Councillors to be obtained from the Minister.

## 21. Notice for Adjourned Meeting

The Chief Executive Officer may provide written notice of an adjourned meeting but where that is not practicable because time does not permit that to occur then, provided a reasonable attempt is made to contact each member, notice by telephone, facsimile, email, in person or by some other means will be sufficient.

## PART 4 – MINUTES

### 22. Keeping of Minutes

The Chief Executive Officer is responsible for arranging the keeping of minutes on behalf of the Council.

### 23. No Debate on Confirmation of Minutes

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

### 24. Objection to Confirmation of Minutes

If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:

- a. state the item or items with which he or she is dissatisfied; and

- b. propose a motion clearly outlining the alternative wording to amend the minutes.

## 25. Deferral of Confirmation of Minutes

The Council may defer the confirmation of minutes until later in the meeting or until the next meeting as appropriate.

## 26. Contents of Minutes

- a. In keeping the minutes of any meeting, the Chief Executive Officer must arrange the recording of minutes so as to show:
  - i. the names of Councillors and whether they are PRESENT, an APOLOGY, on LEAVE OF ABSENCE, etc;
  - ii. the name of any staff member and persons formally addressing the meeting;
  - iii. the arrival and departure times of Councillors during the course of the meeting (including any temporary departures or arrivals);
  - iv. every motion and amendment moved, including the mover and seconder of any motion or amendment;
  - v. procedural motions;
  - vi. formal motions;
  - vii. the outcome of every motion, that is, whether it was put to the vote and the result (CARRIED, LOST, WITHDRAWN, LAPSED, AMENDED etc.) and identification of those motions voted on by secret ballot
  - viii. where a valid division is called, identification of the names of every Councillor and the way their vote was cast; either FOR or AGAINST
  - ix. when requested by a Councillor, a record of that Councillor's support or opposition for any motion
  - x. details of failure to achieve or maintain a quorum and any adjournment;
  - xi. details of any question directed or taken upon notice, and answers to questions to be recorded in next appropriate agenda and be responded to in writing where requested ;

- xii. details of any deputations made to the Council;
  - xiii. the time and reason for any adjournment of the meeting or suspension of standing orders;
  - xiv. disclosure of the existence and nature of the conflict of interest of a Councillor declared at or identified to a meeting to a meeting; and
  - xv. any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or the reading of the Minutes.
- b. In addition, the Minutes should:
- i. bear the date and time the meeting was commenced, adjourned, resumed and concluded;
  - ii. be consecutively page numbered;
  - iii. contain consecutive item numbers which are clearly headed with a subject title; and
  - iv. Contain sufficient information to provide for an historical and public record of Council's activities and affairs

## PART 5 - BUSINESS OF MEETINGS

### 27. The Order of Business

- a. The agenda items and order of business of Council meetings will be determined by the Chief Executive **Officer** to facilitate and maintain open, efficient and effective processes of government taking into account the convenience to and interest of the community.
- b. Although preparation should aim at consistent agendas from meeting to meeting, this should not preclude altering the order of business to enhance the fluent and open process of government of the Council, to meet identified needs of Council or to take advantage of opportunities which may arise from time to time for Council

### 28. Change to Order of Business

Once an agenda has been sent to Councillors, the order of business for that meeting may only be altered by resolution of the Council.

### 29. Meetings of Special Committees

The provisions of clauses 27 and 28 apply to meetings of Special Committees of Council except that the agenda will be relevant to the issues which are to be raised at the Special Committee and any reference to Councillors extends to non-Councillor members of a Special Committee under section 86 of the Act and any reference to the Council is to be read as referring to the Special Committee under section 86 of the Act.

### 30. Mayor Unable to Attend Council Meeting

If the Mayor is unable to attend a Council meeting for any reason:

- a. the Deputy Mayor immediate past Mayor or latest past Mayor respectively will chair the meeting;
- b. if the Deputy Mayor, immediate past Mayor and latest past Mayor are not present, the Chief Executive **Officer** shall invite nominations from Councillors present and the Councillor elected will chair the meeting

## PART 6 - VOTING AT MEETINGS

### 31. How Determined

Subject to clause 49 in determining a question before a meeting of Council, the Chair will first call for those in favour of the motion and then those opposed to the motion and will declare the result to the meeting.

All votes taken by Councillors on any matter of business will be recorded in the Minutes

### 32. By Show of Hands

Voting on any matter in a Council and Special Committee meetings that are open to the public must be by show of hands unless the Council resolves otherwise.

### 33. By Secret Ballot

The Council may resolve to deal with any matter by secret ballot only in meetings that are closed to members of the public in accordance with Section 89 of the Act.

### 34. System of Voting by Secret Ballot

If the Council resolves to deal with any matter by secret ballot in a meeting that is closed to members of the public, the Chief Executive Officer must establish and cause to be administered a system for voting by secret ballot to ensure that the privacy of the vote is maintained.

### 35. When a Division is Permitted

- a. Subject to clause 38, a division may be requested by any Councillor on any matter.
- b. The request must be made to the Chair either immediately prior to or immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

### 36. Procedure for a Division

Once a division has been requested in circumstances other than those dealt with in clause 39, the Chair will call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion.

### **37. Change Between the Original Vote and the Division**

No Councillor is prevented from changing his or her original vote upon voting on the division, and the voting by division will determine the Council's resolution on the issue.

### **38. Division Not Allowable if Voting by Secret Ballot**

If the question on any matter is determined by secret ballot, a request to the Chair for a Division must not be accepted

### **39. No Discussion Once Declared**

Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion is:

- a. for a Councillor to request that his or her opposition to the motion be recorded in the minutes; or
- b. where a subsequent notice of motion follows a rescission motion

### **40. Application To All Meetings**

The provisions of clauses 32 to 40 apply to meetings of special committees of council to the extent that they are relevant to the proceedings of any special committee and any reference to Councillor in those clauses extends to any member of a special committee.

### **41. Casting Vote**

If there is an equality of votes the Chair has a second vote in accordance with Section 90 of the Act.

The casting vote is not permitted if there is an equality of votes on a question arising under sections 71(1) (election of Mayor), 87(2) (appointment of Special Committee chair), 87(3) (appointing Special Committee acting Chair) or 87(5.) (determining a place for a Special Committee) of the Act. The matter in such circumstances is to be determined by lot or as otherwise specified within this Local Law.

## PART 7 - ADDRESSING THE MEETING

### 42. Addressing the Meeting

- a. Except for the Chair and officers, any Councillor or person who addresses the meeting must stand and direct all remarks through the Chair.
- b. Despite sub-clause (a), the Chair may permit any Councillor or person to remain seated whilst addressing the Chair, for reasons of sickness, infirmity, disability or otherwise at his or her discretion.
- c. Any person addressing the Chair should refer to the Chair as:
  - i. Mayor;
  - ii. Mr. Mayor;
  - iii. Madam Chair; or
  - iv. Mr. Chair;as the case may be.
- d. All Councillors, other than the Mayor, should be addressed as Cr (name).
- e. All Officers should be addressed as Mrs, Ms, Miss or Mr (name).

### 43. Suspension of Standing Orders

- a. Subject to this clause, the provisions of this Local Law may be suspended for a particular purpose by resolution of the Council.
- b. The suspension of standing orders should be used to enable full discussion of any issue without the constraints of formal meeting procedure.
- c. The purpose is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.
- d. It should not be used purely to dispense with the processes and protocol of the government of the Council. All directions of the Chair will be adhered to as if Standing Orders had not been suspended.
- e. Once the discussion has taken place and before any motions can be put, the resumption of Standing Orders will be necessary.

#### **44. No Motions May Be Accepted During Suspension of Standing Orders**

No motion may be accepted by the Chair or be lawfully dealt with during any suspension of standing orders other than a motion calling for the resumption of Standing Orders.

#### **45. Interruption for Point of Order**

A Councillor who is addressing the meeting must not be interrupted unless called to order when he or she must sit down and remain silent until the Councillor raising the point of order has been heard and the question disposed of.

### **PART 8 - OTHER MEETING PROCEDURES**

#### **Division 1 - Matters Not Provided For**

##### **46. Matters Not Provided For**

Where a situation has not been provided for under this Local Law, the Council may determine the matter by resolution.

##### **47. Conflict of Interest**

Councillors or members present at a meeting must disclose any conflict of interest in accordance with Section 79 of the Act.

#### **Division 2 - Motions**

##### **48. Chair's Duty**

Any motion or amendment which:

- a. is defamatory; or
  - b. is objectionable in language, nature or intent; or
  - c. is outside the powers of the Council; or
  - d. is not relevant to the item of business on the agenda and has not been admitted as urgent business; or
  - e. purports to be an amendment but is not -
- must not be accepted by the Chair.

## 49. Moving a Motion

- a. The procedure for any motion is:
  - i. The mover must state the motion without speaking to it;
  - ii. Unless the motion is a formal motion at Clause 76 of this Local law, it must be seconded by a Councillor other than the mover;
  - iii. If a motion is not seconded and is not a formal motion, the motion will lapse for want of a seconder;
  - iv. If the motion is seconded, the Chair must request:
    - 1. the mover to address the Council on the motion; and
    - 2. the seconder to address the Council on the motion (who may without speaking on the motion, reserve his or her address until later in the debate); and
    - 3. whether there is any opposition to the motion;
    - 4. any Councillor who is opposed to the motion to address the Council on the motion;
    - 5. all other Councillors to address the Council on the motion in any order determined by the Chair.
- b. The Chair after two consecutive speakers for a motion, and after confirming that there is no opposition to the motion or there are no other speakers, may put the motion to the vote.

## 50. Right of Reply

- a. The mover of an original motion which has not been amended may, once debate has been exhausted, have a right of reply to matters raised during debate.
- b. After the right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate.

## 51. No Right of Reply

- a. No right of reply is available where an amendment is before the Council.

- b. No right of reply is available where no opposition has been declared under Clause 49(a)(iv)3.

## **52. Moving an Amendment**

- a. A motion having been moved and seconded may be amended by leaving out, inserting or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole.
- b. An amendment cannot be a direct negative.
- c. An amendment may omit parts of the motion or add additional parts, provided the substantive nature of the motion is retained.

## **53. Who May Propose an Amendment**

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

## **54. 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.

## **55. 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. No second or subsequent amendment, whether to the original motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.

## **56. An Amendment Once Carried**

If the amendment motion is carried, it then becomes the question before the meeting.

## **57. Deferral of the Matters before the Chair**

- a. During debate on a motion or amendment the Chair may accept a motion to defer the matter before the Chair.

- b. The deferral motion, if accepted, will take precedence over the motion or amendment before the Chair at the time. It will not take precedence over a formal motion or a motion of dissent on a point of order.
- c. The deferral motion is intended to allow discussion on a particular matter at a later time at which more information or expertise can be made available.
- d. The deferral motion shall include reference as to when the matter will be further discussed. This can be in either specific or general terms. The reason for the deferral shall also be included within the deferral motion.
- e. As the matter is being deferred, not the original motion or amendment, any formal decision from Council on the matter, once further discussions have been held, will have to be the subject of a further motion to a Council Meeting. The motion or amendment before the Chair at the time of the deferral motion has effectively lapsed should the deferral motion be successful.
- f. The Chair in deciding to allow the deferral motion shall take into consideration whether there has been sufficient debate and whether there is a prima facie case for deferral.

## 58. Foreshadowing Motions

- a. At any time during a debate, 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 right to the foreshadowed motion.
- b. A motion foreshadowed may be prefaced with a statement that, in the event that a particular motion before the Chair is resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- c. A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- d. The Chief Executive Officer is not required to have foreshadowed motions recorded in the Minutes until the foreshadowed motion is formally moved, but may do if it is thought appropriate.

## **59. Withdrawal of Motions**

Before any motion is put to the vote, it may be withdrawn by agreement of both the mover and seconder with leave of the Chair. However procedural motion does not require a seconder.

## **60. Separation of Motions**

Where a motion contains more than one part, a Councillor may request the Chair to put the motion to the vote in separate parts.

## **61. Chair May Separate Motions**

The Chair may decide to put any motion to the vote in separate parts.

## **62. Motions in Writing**

- a. The Chair may require any motion to be submitted in writing where it is lengthy, unclear or for any other reason.
- b. The Chair may suspend the meeting while the motion is being written or may request the Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

## **63. Debate Must Be Relevant to the Motion**

- a. Debate must always be relevant to the question before the Chair, and if not, the Chair may request the speaker to confine debate to the subject motion.
- b. If after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chair may require the speaker to be seated and not speak further in respect of the matter then before the Chair.

## **64. Speaking Times**

Other than when an extension of speaking time has been granted under Division 3 of this Local Law, all speaking times will be for a duration of no more than 5 minutes.

## Division 3 - Extension of Speaking Time

### 65. By Resolution of the Council

An extension of speaking time may be granted by resolution of the Council but only one extension is permitted for each speaker on any motion.

### 66. When an Extension Can Be Proposed

A motion for an extension of speaking time must be proposed:

- c. immediately before the speaker commences debate;
- d. during the speaker's debate; or
- e. immediately after the speaker has concluded debate.

### 67. No Extension After Next Speaker Commenced

A motion for an extension of speaking time cannot be accepted by the Chair if another speaker has commenced his or her debate.

### 68. Length of Extension

Any extension of speaking time must not exceed three minutes.

## Division 4 - Points of Order

### 69. Chair to Decide

- a. Only one point of order can be raised before the Chair at any one time.
- b. The Chair must decide on points of order in the order in which they are raised.
- c. The Chair will 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.

### 70. Chair May Adjourn to Consider

- a. The Chair may adjourn the meeting to consider a point of order otherwise he or she must rule on it as soon as it is raised.
- b. All other matters before the Council are to be suspended until the point of order is decided.

## 71. Final Ruling on a Point of Order

- a. The decision of the Chair in respect to a point of order raised will not be open for discussion and will be final and conclusive unless the majority of Councillors present pass a motion of dissent.
- b. A motion of dissent on a point of order must contain the provision, rule, practice or precedent in substitution for the Chair's ruling.
- c. A motion of dissent in relation to a point of order is not a motion of dissent in the Chair and the Chair must at all times remain in the Chair and he or she will maintain his or her right to a second vote.
- d. A motion of dissent on a point of order will take precedence over all other business and if carried must be acted on instead of the ruling given by the Chair

## 72. Procedure for Point of Order

A Councillor raising a point of order must:

- a. state the point of order; and
- b. the clause, paragraph or provision constituting the point of order.

## 73. Valid Points of Order

A point of order may be raised in relation to:

- a. a procedural matter;
- b. a Councillor who is or appears to be out of order; or
- c. any act of disorder.

## 74. Contradiction of Opinion

Rising to express a mere difference of opinion or to contradict a speaker will not be treated as a point of order.

## 75. Adjournment and Resumption of Meeting

- a. The Chair or the Council may adjourn any meeting until a time and place to be determined at the time of the adjournment.

- b. For the purpose of stating the time to which the meeting is adjourned, that time may be indicated as at the adjournment or conclusion of another meeting or event.

## 76. Formal Motions

- a. Unless otherwise prohibited, a formal motion may be moved at any time and must be dealt with immediately by the Chair.
- b. Formal motions are not required to be seconded.
- c. The mover of a formal motion must not have moved, seconded or spoken to the question before the Chair or any amendment of it.
- d. A formal motion cannot be moved by the Chair.
- e. Unless otherwise provided, debate on a formal motion is not permitted and the mover does not have a right of reply.
- f. Unless otherwise provided, a formal motion cannot be amended.

## 77. Laying the Question on the Table

- a. A motion may be moved "That the (question, letter, document, report etc.) lay on the table"
- b. The motion in sub-clause (a):
  - i. is a formal motion which may be debated and, if carried, has the effect of adjourning any further debate on the matter currently before the council until such time (if any) as the Council resolves (by ordinary motion) to take the question from the table;
  - ii. if carried in respect of an amendment, has the effect that both the original motion and the amendment will be adjourned; and
  - iii. prevents debate on the matter currently before the council proceeding until a motion to take the question from the table is passed.
- c. Despite the extent of debate that may have occurred on a motion prior to it being "laid on the table", full debate will be allowed by all Councillors should the motion be raised from the table at a later date.

## 78. Proceeding to the Next Business

- a. A motion may be moved "That the meeting proceed to the next business"
- b. The motion in sub-clause (a):
  - i. is a formal motion which cannot be moved during the election of Chair;
  - ii. if carried in respect of an original motion, requires the Chair to direct the meeting to the next item of business;
  - iii. if carried in respect of a formal motion, disposes of the formal motion immediately and permits debate upon the original motion to proceed; and
  - iv. if carried in respect of an amendment, disposes of the amendment immediately and permits debate upon the original motion to proceed but no similar amendment may be moved at that meeting or any adjournment of it.

## 79. The Previous Question

- a. A motion may be moved 'That the question be NOT now put'
- b. The motion in sub-clause (a):
  - i. is a formal motion which cannot be moved while there is an amendment before the Chair or during the election of a Chair; and
  - ii. if carried, prevents the original motion or substantive motion to which it relates being dealt with at that meeting or any adjournment of it; and
  - iii. if lost, requires that the original or substantive motion to which it relates be put to the vote immediately without any further debate or amendment.
- c. The Chair has the discretion to reject a motion for the previous question if the matter is contentious by nature or the original motion before the Chair has not been adequately debated.
- d. Adequate debate arises when every Councillor who wishes to put a view has had an opportunity to do so.

## 80. The Closure

- a. A motion 'That the motion be now put'
- b. The motion in sub-clause (a):
  - i. is a formal motion which if carried in respect to an original motion, requires that the original motion must be put to the vote immediately without any further debate, discussion or amendment; and
  - ii. if carried in respect to an amendment, requires that the amendment be put to the vote immediately without any further debate or discussion and allows debate on the original motion to continue; and
  - iii. if lost, allows debate to continue unaffected; and
- c. The Chair has the discretion to reject such a motion for closure if the motion upon which it is proposed has not been adequately debated.
- d. Adequate debate arises when every Councillor who wishes to put a view has had an opportunity to do so.

## 81. Adjourning the Debate

- a. A motion may be moved "That the debate be adjourned until...."
- b. The motion in sub-clause (a):
  - i. is a formal motion which cannot be moved while any person is speaking or during the election of a Chair; and
  - ii. may be debated but may only be amended in relation to the time, date and place of the proposed adjournment.
  - iii. should provide a date or time to which the adjournment is sought but if no date or time is included, it may be relisted at the discretion of the Chief Executive Officer or upon a subsequent resolution of council.

## Division 5 - Notice of Motion

### 82. Must be Listed on Agenda

A notice of motion cannot be accepted by the Chair unless it has been listed on the agenda for the meeting at which it is proposed to be moved.

### 83. Procedure

- a. A Councillor may give notice of motion on any matter he or she wants discussed at a meeting by delivering a notice of motion outlining the subject and the motion proposed for discussion to the Chief Executive Officer.
- b. To assist debate, the Councillor raising the notice of motion must provide a written background to the issue, such background being included within the agenda.

### 84. Rejection of a Vague Notice

The Chief Executive Officer:

- a. may reject any notice of motion that is too vague, but before rejecting it must give the Councillor delivering the notice an opportunity to amend it; and
- b. must notify the relevant Councillor of any notice of motion which has been rejected and give the reasons for its rejection.

### 85. Listing Notice on Agenda

Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the notice of motion and if more than one, in the order they were received, on the next appropriate meeting agenda.

### 86. Register of Notices

The Chief Executive Officer must cause every notice of motion received to be sequentially numbered and maintained in a register. Each notice of motion must be signed by the originating Councillor.

### 87. May be Moved by any Councillor and Amended

A notice of motion listed on a meeting agenda, may be moved by any Councillor present and, except where the notice of motion is to confirm a previous resolution of the Council, may be amended.

## 88. Except for Confirmation of Previous Resolution

If a notice of motion to confirm a previous resolution of the Council cannot be carried in its original form, it is lost.

## 89. If Lost

Unless the Council resolves to re-list at a future meeting a notice of motion which has been lost, a similar motion must not be put before the Council for at least three months from the date it was last lost.

## Division 6 - Notice of Amendment or Rescission

### 90. Procedure

- a. A Councillor may propose a motion to amend or rescind a decision of the Council provided:
  - i. the previous motion has not been acted upon; and
  - ii. a notice signed by the proposer is delivered to the Chief Executive Officer outlining;
    1. the decision proposed to be amended or rescinded; and
    2. the meeting and date when the decision was made.
- b. A decision will be acted upon once its details have been formally communicated to persons affected by or reliant on the resolution or where a statutory procedure has been carried out as a result of that decision.

### 91. Listing Notice on Agenda

Unless the notice specifies a particular meeting date as to when the notice of amendment or rescission should be dealt with, the Chief Executive Officer must list the notice of amendment or rescission, and if more than one, in the order they were received, on the next appropriate meeting agenda together with a brief report outlining the criteria required for the motion to be amended or rescinded.

### 92. Criteria to Amend or Rescind a Motion

For a decision of the Council to be amended or rescinded, the motion for amendment or rescission must be carried by a majority of the votes cast.

### **93. If Lost**

Unless the Council resolves to re-list at a future meeting a notice to amend or rescind which has been lost, a similar motion must not be put before the Council for at least three months from the date it was last considered.

### **94. If Not Moved**

If a notice of amendment or rescission is not moved at the meeting for which it is listed, it will lapse.

### **95. May be Moved by any Councillor**

A notice of amendment or rescission listed on a meeting agenda may be moved by any Councillor present but cannot be amended.

### **96. When Not Required**

A notice of amendment or rescission is not required where the Council wishes to change a previous decision relating to policy of the Council.

### **97. Register of Notices**

The Chief Executive Officer must cause every notice of amendment or rescission received to be sequentially numbered and to be maintained in a register. Each notice of amendment or rescission must be signed by the originating Councillor.

### **98. Urgent or Other Business**

- a. Motions which have not been listed on the Agenda may only be raised as urgent business by resolution of Council.
- b. If determining whether something is urgent the following guidelines will be considered:
  - i. whether the matter cannot be adequately dealt with at the next ordinary meeting of Council as an officers report or notice of motion; or
  - ii. whether the matter cannot be adequately dealt with by officers under delegation.
- c. Other business, not requiring a resolution of Council can be raised by Councillors, but will be at the discretion of the Chair.

## Division 7 - Public Participation

### 99. During Meetings

- a. At every ordinary meeting of the Council, time may be allocated to enable any member of the community to address the Council.
- b. Sub-clause (a) does not apply during any period when the Council has resolved to close the meeting in respect of a matter under Section 89(2) of the Act.
- c. The Council may allocate reasonable time to each person who wishes to address the Council having regard to:
  - i. the nature of the matter to be discussed;
  - ii. priorities in relation to other Council business;
  - iii. other members of the community present who also wish to address the Council;
  - iv. whether such an opportunity has already been provided to the person.
- d. The Council may decide to defer discussion to a later date and the views of the person addressing the Council should be sought concerning that other date.

### 100. Engagement of Public

Council may adopt policies, guidelines and procedures relating to public participation to ensure the smooth and efficient conduct of Council meetings and meetings of Special Committees in accordance with this Local Law.

### 101. Meetings

Any member of the public or community addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates and must take direction from the Chair whenever called upon to do so.

### 102. Petitions and Joint Letters

- a. All petitions and joint letters may be presented to Council by a Councillor.

- b. A petition or joint letter presented to the Council must lay on the table until the next ordinary meeting of the Council and no motion, other than to receive the petition or joint letter, may be accepted by the Chair unless the Council agrees to deal with it earlier.

### 103. Signing Petitions

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.

### 104. Councillor Presenting Petition – Obligations

Any Councillor presenting a petition or joint letter will be responsible for ensuring that:

- a. he or she is familiar with the contents and purpose of the petition or joint letter; and
- b. the petition or joint letter is not derogatory or defamatory.

## Division 8 - Additional Duties of Chair

### 105. Chair May Remove

- a. Any person who has been called to order including any Councillor who fails to comply with the Chair's direction will be guilty of an offence.

Penalty: 5 penalty units

- b. The Chair has the discretion to cause the removal of any person including a Councillor who disrupts any meeting or fails to comply with a direction.

### 106. The Chair's Duties and Discretions

In addition to other duties and discretions provided in this Local Law, the Chair:

- a. must not accept any motion, question or statement which appears to the Chair to be derogatory or defamatory to any Councillor, member of staff, ratepayer or member of the public or any organisation (including Council);
- b. must call to order any person who is disruptive or unruly during any meeting.

## PART 9 - COMMON SEAL

### 107. The Common Seal of Council

c. Provision

The purpose of this Local Law is to provide for a matter which requires a Local Law under the Act.

d. Regulation of the Use of the Common Seal

The purpose of this part is to regulate the use of the Common Seal and prohibit unauthorised use of the Common Seal or any device resembling the Common Seal as required by Section 5 of the Act.

e. Use of Common Seal

The Common Seal may be used only on the authority of the Council.

f. Who Keeps the Common Seal?

The Chief Executive **Officer** must ensure that the Common Seal is kept in safe custody.

g. Signatures to accompany Seal

Every document to which the Seal is affixed must be signed by the Chief Executive **Officer**.

h. Unauthorised use of the Seal

- i. No person may use the Common Seal or any device resembling the Common Seal without the authority of the Council.
- ii. The Council's Common Seal may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the Chief Executive **Officer** or some other senior officer authorised by him or her.
- iii. Council may, by resolution, give the Chief Executive **Officer** authority to use the Common Seal for general classes of activities or transactions.
- iv. If the Chief Executive **Officer** uses the Common Seal in a manner prescribed by sub-clause (c) then he/she must advise Council of such use on a regular basis.

- v. Any person who uses the Council's Common Seal without authority is guilty of an offence.  
Penalty: 10 penalty units.
- vi. Any person who uses any replica of the Council's Common Seal without authority is guilty of an offence.  
Penalty: 10 penalty units.

## PART 10 - ENFORCEMENT AND PENALTIES

### 108. Infringement Notices

- a. An authorised officer may issue an infringement notice in the form of the notice in Schedule 1.
- b. The fixed penalty in respect of an infringement is the amount set out in Schedule 2

### 109. Payment of Penalty

- a. A person issued with an infringement notice may pay the penalty indicated to the Chief Executive Officer, South Gippsland Shire Council, Private Bag 4, Leongatha, 3953.
- b. To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- c. A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

**SCHEDULE 1 - INFRINGEMENT NOTICE**

Date:

To: [name and address]

I, [name of authorised officer] have reason to believe that you have committed an offence against the Processes of Municipal Government Local Law No. 1 2009 of the South Gippsland Shire Council, as indicated below:

Date:Time:

Clause of Local Law:Penalty: penalty units

Description of the offence:

Location of the offence:

You are entitled to disregard this notice and defend the prosecution for an offence in Court.

SCHEDULE 2 - PENALTIES FIXED FOR INFRINGEMENTS		
Provision	Offence	Penalty Units
105 (a)±	Failing to comply with a direction of the chair	5
103	Fraudulently signing a petition or joint letter	10
107 (h)(v)(6e)	Using the Common Seal without authority	10
107 (h)(vi)(6f)	Using a replica of the Common Seal without authority	10

**SCHEDULE 3 – GOVERNANCE DEFINITIONS****Adopted (Carried)**

Recommendations within Council reports can be adopted (carried) and involve some subsequent Council responsibilities/actions to be undertaken.

*For example, Council adopts its annual budget and strategies/plans.*

**Council**

The Council consists of its Councillors who are democratically elected in accordance with the Local Government Act 1989.

**Endorse**

Recommendations within Council reports can be endorsed confirming Council's support.

*For example, Council endorsing the MAV approach in seeking more road funding from the Federal Government.*

**Motion**

Is a proposition which is submitted to a meeting with a view to it being adopted by a majority vote.

**Note**

Recommendations within Council reports can be noted and is where Council seeks to acknowledge the contents of the report only. No further action is committed.

*For example, Council noting the outcome of a Victorian Civil and Administrative Tribunal (VCAT) Hearing.*

**Receive**

Recommendations within Council reports where advice is provided on an event situation but not necessarily agreed to.

*For example, Council receiving a presentation or advice from an external body.*

**Resolution**

Is a motion that has been carried by a majority voting in its favour.

**NO ENDORSEMENT OR SUPPORT BY COUNCIL IS IMPLIED TO THE NOTE AND RECEIVE DEFINITIONS.**