

South Gippsland Shire Council

Local Law Community Impact Statement – March 2020

Proposed: Review of 'Local Law No.3 2010 – Processes of Municipal Government and Common Seal' and establishment of 'Local Law No.2 2020 – Processes of Municipal Government and Common Seal'.

Council provides the following information to the community in respect of the cessation of Local Law No.3 2010 and establishment of Local Law No.2 2020 – Meeting Procedure and Common Seal.

Part A – General Comments

Background

Local Law No.3, 2010 – Processes of Municipal Government (2010 Local Law) was last reviewed, updated and adopted by Council in May 2010. The 2010 Local Law has a 10 year sunset clause, requiring a review and update to align with current legislation and Council direction.

Amended legislation and new/updated Council Policies refining Council's direction have come into effect since the 2010 Local Law's adoption. Council will address these changes in the review and establishment of Local Law No.2 2020 (2020 Local Law)

The current development of the Local Government Act 2020, (2020 Act) will play a major influencing part on the future Governance Rules that will replace the current Local Law for meeting procedures. This has influenced Council's decisions to make only minor changes in Local Law review at this stage. A more extensive review is planned for the anticipated Governance Rules. Those rules will need to incorporate the requirements and directions of the new Act and regulations, once gazetted.

Objectives

The objective of this Local Law review is to bridge the gap so that Council has a new local law to govern Council meetings and Special Committees until such time as the 2020 Act, gains Royal Assent and the transition to Governance Rules is managed. The new Local Law is based on the previous Local Law No 3, 2010.

Objectives of the 2020 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.

Specific objectives of the minor changes made are to:

- a. Address minor title corrections; and
- b. Update existing paragraphs to meet the current Local Government Act 1989 requirements.

Part B – Comments on proposed Local Law

Measures of success of proposed Local Law	<p>Council will measure the success of the Proposed Local Law No. 2 2020 as follows:</p> <ol style="list-style-type: none"> 1. The extent to which Council and Special Committee Meetings run smoothly through all present applying the Local Law and associated processes effectively and consistently.
Existing legislation that might be used instead	The Local Government Act 1989.
State legislation more appropriate	The Local Government Act 1989.
Overlap of existing legislation	<p>At the time of release, Council considers the provisions of the proposed Local Law supplement the Local Government Act 1989.</p> <p>The proposed Local Government Act 2020 and regulations, once they receive Royal Assent, may provide either applicable sections, clauses, regulations or other mandatory components that may reduce or remove the need for the Local Law in full, or part. Once gazetted Council may be required to amend the Local Law to ensure its continued alignment and removal of any overlap.</p>
Risk assessment	The Proposed Local Law No.2 2020 review seeks to check and correct any identified misalignment with current legislation, particularly the Local Government Act 1989 and the Charter of Human Rights, to mitigate the risk of non-compliance with legislation, poor governance practices and inconsistent meeting procedures.
Legislative approach adopted	The Proposed Local Law No.2 2020 seeks to ensure Council meets current legislative provisions as an interim step to bridge the gap for anticipated new requirements in the proposed Local Government Act 2020 and regulations.
Restriction of competition	This component is not relevant to the Proposed Local Law No.2 2020, as it does not have any impact on competition.
Penalties	Penalties previously applied under the Local Law No. 3 2010, remain unchanged, other than where modified to meet with current 1989 Act requirements.
Performance standards or prescriptive	The Proposed Local Law No.2 2020 contains elements of performance standard requirements of participants in Council meetings and Special/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. Minimal changes have been made to the Proposed Local Law No.2 2020, given its anticipated short lifespan.</p> <p>Community feedback and consideration of sector interests will become more relevant in the development of the future Governance Rules.</p>
Charter of Human Rights	<p>The Proposed Local Law No.2 2020 has been reviewed to be compatible with the Charter of Human Rights.</p>
Consultation meetings	<p>The State Government has conducted extensive consultation sessions in the review of the 1989 Act and the development of the new 2020 Bill/Act. The Proposed Local Law No.2 2020 benefits from the outcomes of these State based consultations and their proposed application.</p>
Submissions	<p>The community will be invited to provide submissions on the new Proposed Local Law No.2 2020 through a formal s.223 public consultation process under the 1989 Act. This will occur once the Local Law is endorsed by Council in March 2020 and gazetted for consultation purposes. Submissions are to be submitted by 5.00pm on Thursday 23 April 2020.</p>

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

Clause(s), section or part of Local Law	PART 2 – STATUTORY MEETING, ELECTION OF MAYOR, TAKING OATH OF OFFICE AND FIXING OF ALLOWANCES
Description or heading(s)	Clause 6 – Meeting to elect the Mayor; and Clause 7 – Election of Mayor and Deputy Mayor
The problem the provision is intended to address	Clauses require minor amendments to align to the current 1989 Act and the Charter of Human Rights.
Description of the problem	Update the Proposed Local Law No. 2 2020, to comply with legislative requirements in the Local Government Act 1989 for the election of the Mayor in Clause 6 and by removing the denial of Councillors rights to abstain in Clause 7.
Council objective	Enhance Organisational Development & Implement Governance Best Practice
Where is the Council's objective set out?	Council Plan 2017-2021- Revised July 2019
How does the proposed Local Law provision help achieve objectives?	Strategy 4.2.1 Increase transparency through more items being held in open Council Meetings and communicating more clearly reasons behind decisions.