

## Local Law Community Impact Statement (LLCIS)

### Greater Shepparton City Council Local Law No. 2 – Conduct at Meetings and Common Seal

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Greater Shepparton City Council (**Council**) provides the following information to the community in respect of its Local Law No. 2 – Conduct at Meetings and Common Seal.

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#### 1. 1. INTRODUCTION

Council is proposing to make the new Local Law No. 2 – Conduct at Meetings and Common Seal (**proposed Local Law**).

The proposed Local Law will revoke Council's Local Law No. 2 – Procedures for Council Meetings and Common Seal (**current Local Law**) and replace the current Local Law to the extent that the current Local Law regulates the use of Council's common seal and creates offences.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council during the public consultation process required under the *Local Government Act 1989 (Act)*.

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#### 2. BACKGROUND

The current Local Law addresses the meeting procedure applicable to Council (and Special Committee) meetings. It also regulates the use of Council's common seal and creates an offence for disorderly conduct at Council (and Special Committee) meetings.

The meeting procedure applicable to Council (and Delegated Committee) meetings will now be addressed through Governance Rules made under the *Local Government Act 2020 (2020 Act)*. As part of the transition to the 2020 Act, Council is revoking the current Local Law to make way for its Governance Rules.

However, the use of the common seal cannot be addressed through Governance Rules, nor can offences be created. Accordingly, Council has resolved to repeal the current Local Law and make the proposed Local Law to provide for the continued regulation of Council's common seal and offences in respect of conduct at meetings.

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#### 3. OVERVIEW OF PROPOSED LOCAL LAW

The purpose of the proposed Local Law is to:

- revoke the current Local Law;
- regulate the use of the common seal; and
- create offences relating to conduct at Council and Delegated Committee meetings.

The proposed Local Law will come into operation on the day after the day on which notice of the making of the proposed Local Law is published in the Victoria Government Gazette and, unless it is revoked earlier, will expire 10 years after commencement.

On commencement of the proposed Local Law, the current Local Law will be revoked.

Proposed changes brought about by the proposed Local Law are not substantial and will, save for a minor change in terminology, reproduce the existing provisions of the current Local Law with respect to the regulation of the common seal and creation of offences.

Under s 223 of the Act, Council is required to give public notice of the proposed Local Law and invite submissions for a period of at least 28 days.

The statutory consultation period will run from 31 July 2020 to 28 August 2020.

Anyone who makes a written submission can request to be heard in support of their submission at the Council meeting which will be convened on 8 September 2020, if required.

The proposed Local Law has been reviewed by Council's lawyers who confirm that it complies with all regulatory requirements.

A copy of the proposed Local Law is attached (**Attachment 1**) to this Community Impact Statement.

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#### 4. EVALUATION OF THE PROPOSED LOCAL LAW

In accordance with Guidelines issued by the Minister for Local Government in relation to the making of local laws, Council has conducted an evaluation of the Proposed Local Law. The evaluation is outlined in the following Table.

Issue	Evaluation
Objectives	<p>The objectives of the proposed Local Law are to:</p> <ul style="list-style-type: none"> <li>• revoke the current Local Law;</li> <li>• create offences relating to conduct at Council and Delegated Committee meetings; and</li> <li>• regulate the use of the common seal.</li> </ul>
Legislative Framework	<p>The Act gives councils broad powers to make local laws with respect to any function or power of the council and the 2020 Act gives councils the power to make local laws with respect to use of their common seals.</p> <p>The proposed Local Law addresses matters within Council's broad functions and powers.</p>
State legislation more appropriate	<p>State legislation permits Council to make Local Laws with respect to the use of its common seal and the orderly conduct of meetings. In developing the proposed Local Law, Council has not sought to address any issues which it considers are best addressed at the State or Federal level.</p>
Overlap with existing legislation	<p>The proposed Local Law does not overlap with existing legislation, rather it operates in conjunction with the requirements of the 2020 Act.</p>
Planning Scheme	<p>Not applicable.</p>

Issue	Evaluation
Legislative Approach	<p>Council has taken a high impact regulatory approach that is considered appropriate to:</p> <ul style="list-style-type: none"> <li>• facilitate the orderly conduct of Council and Delegated Committee meetings; and</li> <li>• provide clear accountability for appropriate use and safekeeping of the common seal.</li> </ul> <p>All provisions of the proposed Local Law are open to public scrutiny and comment.</p>
Performance Standards or Prescriptive Details	<p>Council has adopted a prescriptive approach to the proposed Local law because its purpose is to prescribe the circumstances in which:</p> <ul style="list-style-type: none"> <li>• offences may be committed; and</li> <li>• Council's common seal may be lawfully used.</li> </ul>
Risk Assessment	<p>No formal risk assessment has been undertaken.</p> <p>Council does not consider that there are any risks associated with the proposed Local Law.</p>
Measures of Success	<p>The success of the proposed Local Law will be measured by monitoring the level of compliance with the proposed Local Law.</p>
Permits and Fees	<p>The proposed Local Law does not make provision for the issue of permits and does not prescribe any fees.</p>
Penalties	<p>All offences created under the proposed Local Law attract a maximum penalty of 5 penalty units.</p> <p>Council has compared the general level of penalties provided for in the proposed Local Law with the Local Laws of other like and neighbouring councils.</p> <p>Council is satisfied that penalties are similar in nature and amount to like and neighbouring councils and are sufficient to act as a deterrent for most offences while also reflecting the seriousness of those offences.</p>
Restriction of competition	<p>Not applicable.</p>
Comparison with other Councils	<p>In drafting the proposed Local Law, Council examined Local Laws from a number of like and neighbouring councils to assess similarities and differences and ensure a reasonable degree of consistency in content, approach and penalties.</p>
Charter of Human Rights	<p>The <i>Charter of Human Rights and Responsibilities Act 2006 (Charter)</i> contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. Councils must not knowingly be in breach of these rights and must always consider them when they create laws, develop policies and deliver services.</p> <p>The proposed Local Law has been reviewed for compatibility with the Charter and is considered to be compatible with the Charter.</p>

Issue	Evaluation
Community Consultation	<p>The proposed Local Law has been reviewed in consultation with Councillors, members of Council staff and Council's legal advisers.</p> <p>A community consultation process will be conducted in accordance with s 119(2) and 223 of the Act.</p> <p>This will require Council to give public notice of its intention to make the proposed Local Law and provide members of the public with an opportunity to make a written submission to Council in relation to the proposed Local Law. Council will consider submissions received before making a final decision on the proposed Local Law.</p> <p>A person who makes a written submission is entitled to request (in the submission) to be heard by Council in support of his/her submission. When Council makes a final decision on the proposed Local Law, it must notify in writing each submitter of the decision and the reasons for the decision.</p> <p>This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council.</p>

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## 5. ATTACHMENTS

- **Attachment 1** - Proposed Local Law No. 2 – Conduct at Meetings and Common Seal

GREATER SHEPPARTON CITY COUNCIL

# LOCAL LAW No.2

## CONDUCT AT MEETINGS AND COMMON SEAL

Adopted by Council: Day Month Year

Next Review: Day Month Year

## PART A - INTRODUCTION

### 1. Title

This Local Law is the Greater Shepparton City Council's, "Local Law No. 2 – Conduct at Meetings and Common Seal". It is referred to hereunder as "this Local Law".

### 2. Purpose of this Local Law

The purpose of this Local Law is to:

- 2.1 revoke Council's "Local Law No. 2 – Procedures for Council Meetings and Common Seal";
- 2.2 create offences with respect to conduct at Meetings; and
- 2.3 regulate and control the use of the Common Seal.

### 3. Authorising Provision

This Local Law is made under section 14 of the *Local Government Act 2020* and section 111(1) of the *Local Government Act 1989*.

### 4. Commencement and End Dates

This Local Law:

- 4.1 commences on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette, and operates throughout the municipal district; and
- 4.2 ends on the 10<sup>th</sup> anniversary of the day on which it commenced operation.

### 5. Revocation of Local Law No. 2

On the commencement of this Local Law, Council's "Local Law No. 2 – Procedures for Council Meetings and Common Seal", made on 19 June 2018, is revoked.

### 6. Definitions

In this Local Law:

"Act"	means the <i>Local Government Act 2020</i> .
"Chair"	means the person taking the chair at a Meeting.
"Chamber"	means the room in which a Meeting is being held.
"Chief Executive Officer"	means the person occupying the position of Chief Executive Officer of Council, and includes a person acting in that position.
"Common Seal"	means the Common Seal of the Council, being the device which formally records the collective will of the Council.
"Community Asset Committee"	means a Community Asset Committee established under section 65 of the Act.
"Council"	means the Greater Shepparton City Council.

“Council’s Sealing Clause”	means the sealing clause at clause 10.3.
“Delegated Committee”	means a Delegated Committee established under section 63 of the Act.
“Director”	means a Council Officer appointed by the Chief Executive Officer as part of Council’s Executive Leadership Team.
“Meeting”	means a properly constituted meeting of Council, a Delegated Committee or a Community Asset Committee.
“Penalty Unit”	has the same meaning as in in section 110 of the <i>Sentencing Act 1991</i> .

## 7. Regard to Further Guidance

In exercising its powers and functions under this Local Law, Council may have regard to any guidelines, policies, codes or standards it has adopted for the purpose of the Local Law.

## 8. Conflicts with other Acts

Where any clause of this Local Law conflicts or is inconsistent with the Act or any other Act, that Act has precedence and the clause is inoperative to the extent of the inconsistency.

## PART B – OFFENCES

### 9. Offences

It is an offence for any person, other than a Councillor:

- 9.1 who has been directed at least once by the Chair to stop any conduct which the Chair considers to be disorderly or otherwise disruptive, not to leave the Chamber when directed by the Chair to do so; and

Penalty: 5 Penalty Units

- 9.2 to fail to comply with a direction of the Chair with respect to the conduct of the Meeting.

Penalty: 5 Penalty Units

## PART C – COMMON SEAL

### 10. Council’s Common Seal

- 10.1 The Common Seal must be affixed to a document only for the purpose of:

- 10.1.1 giving effect to a decision which has been made by:

10.1.1.1 made by Council resolution; or

10.1.1.2 the Chief Executive Officer under delegation; or

- 10.1.2 to seal any agreement required to be made under section 173 of the *Planning and Environment Act 1987*.

- 10.2 The Chief Executive Officer must:

10.2.1 ensure the security of the Common Seal at all times; and

10.2.2 maintain a register of documents to which the Common Seal has been affixed.

10.3 Subject to clause 10.4, every document to which the Common Seal is affixed must be signed by the Chief Executive Officer with Council's Sealing Clause:

THE COMMON SEAL of GREATER SHEPPARTON )  
CITY COUNCIL was affixed on this day of )  
20 in the presence of the Chief Executive Officer )  
being a delegated officer pursuant to Local Law No 2  
of the Council:

.....  
CHIEF EXECUTIVE OFFICER

10.4 Where a document to which the Common Seal is to be affixed is a document in which the Chief Executive Officer has an interest, the Common Seal is to be affixed, and the document signed, by such other Director authorised by Council resolution for the purpose, either generally or in a particular case, and Council's Sealing Clause is to be adjusted to reflect that.