



# **EAST GIPPSLAND SHIRE COUNCIL**

LOCAL LAW NO.1

**PROCEDURES FOR  
COUNCIL MEETINGS**

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# EAST GIPPSLAND SHIRE COUNCIL

## Local Law No. 1

### PART 1

#### PRELIMINARY

##### L.1.1 TITLE

This local law is East Gippsland Shire Council's Local Law No. 1 (Procedures for Council Meetings), referred to below as 'this local law'.

##### L1.2 OBJECTIVES OF THIS LOCAL LAW

The objectives of this local law are to:

- a) provide a mechanism to facilitate the good government of East Gippsland Shire Council through its formal meeting procedure to ensure effective and efficient Council decisions are made in a manner that acknowledges the role of local government within the Australian system of government;
- b) 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) regulate and control the election of Mayor and Deputy Mayor;
- d) regulate and control the procedures governing the conduct of meetings including:
  - i) the notice required for meetings; and
  - ii) the keeping of minutes;
- e) provide for the administration of Council's powers and functions;
- f) provide generally for the peace, order and good government of the municipal district;
- g) revoke Local Law No. 1 (Procedures for Formal Council Meetings) 2014.

##### L1.3 THE POWER TO MAKE THIS LOCAL LAW

The Council's power to make this local law is contained in sections 91 and 111 of the *Local Government Act 1989*.

LGA91  
LGA111

#### **L1.4 OPERATIONAL DATE OF THIS LOCAL LAW**

This local law operates from 12 December 2017.

LGA121

#### **L1.5 DATE THIS LOCAL LAW CEASES OPERATION**

Unless this local law is revoked sooner, its operation will cease on 11 December 2027.

LGA122

#### **L1.6 SCOPE OF THIS LOCAL LAW**

This local law will apply to all Ordinary and Special meetings of Council, and meetings of any Special Committees constituted under the provisions of section 86 of the *Local Government Act* 1989.

#### **L1.7 HOW TO READ THIS LOCAL LAW**

##### ***MARGINAL NOTES***

Marginal notes are located against the right hand margin and contain references to the *Local Government Act* 1989, a local law provision or a Schedule of this local law.

A reference in the margin alerts the reader to the relevant section in a supporting document, e.g., the *Local Government Act* 1989 or local law, i.e.

LGA91	Refers to <i>Local Government Act</i> 1989, Section 91
SCH1	Refers to Schedule 1 of this Local Law
L.6.1	Refers to Local Law Clause L.6.1

#### **L1.8 WORDS USED IN THIS LOCAL LAW**

<b><i>WORD</i></b>	<b><i>MEANING</i></b>
Act:	<i>Local Government Act</i> 1989.
Authorised Officer:	A person appointed as an authorised officer in accordance with section 224 of the Act.
Chair:	The person who chairs a meeting of Council.
Chief Executive Officer:	The Chief Executive Officer appointed by Council or the Minister from time to time.
Council:	East Gippsland Shire Council

Councillor:	A person who is a member of Council and so far as practicable extends to any member of any Special Committee of Council.
Council Meeting:	Includes Ordinary and Special meetings of Council.
Debate:	A formal discussion on a particular matter, in which arguments for and against are put forward and which usually ends with a vote.
Deputy Mayor:	Councillor elected as Deputy Mayor.
Mayor:	Councillor elected as Mayor.
Member:	A person who is entitled to vote at a meeting of Council or a Special Committee of the Council.
Minister:	The Minister responsible for administering the <i>Local Government Act 1989</i> .
Penalty Unit:	Penalty Unit as defined by the <i>Monetary Units Act 2004</i> .
Speak:	To make a verbal comment or statement but not to ask a question or questions.
Statutory Meeting:	Annual meeting of Council held for the purpose of electing a Mayor and Deputy Mayor in accordance with sections 71 and 73 of the Act respectively.
Statutory Year:	The year commencing with the Statutory Meeting of Council.
Suspension of Standing Orders:	Means the suspension of the rules and regulations contained in this local law.



## **PART 2**

### **ELECTION OF MAYOR AND DEPUTY MAYOR**

#### **L2.1 TERM OF OFFICE**

Unless otherwise resolved, the term of office of the Mayor will be for a period of one year.

Prior to the election of the Mayor, Council may resolve to elect the Mayor for a period of two years.

#### **L2.2 TIMEFRAME FOR ELECTION**

The meeting to fill the vacancy of Mayor will be held:

LGA71  
LGA72

- a) where the Council conducts general elections, as soon as possible after the declaration of the result of the general election but no later than 30 November; or
- b) after the fourth Saturday in October but not later than 30 November in each year; or
- c) where the position of Mayor becomes vacant, as soon as practicable after the vacancy has occurred; or
- d) if the Mayor is elected for a term of two years, the next election of Mayor will be held in the second year after the election, after the fourth Saturday in October but not later than 30 November in that year.

In the event that the Mayor is elected after 30 November this does not invalidate the election result.

LGA71(4)

#### **L2.3 SETTING MEETING TIME FOR ELECTION OF MAYOR**

Subject to Clause L2.2 the Chief Executive Officer will determine the most appropriate time and date for the election of Mayor.

#### **L2.4 SETTING MEETING TIME FOR ELECTION OF MAYOR LESS THAN ONE YEAR**

If the term of appointment of the Mayor is for less than one year the Council may fix the date for the election of a future Mayor to ensure continuity of the office.

## **L2.5 ELECTION OF TEMPORARY CHAIR**

At any meeting to elect the Mayor, the Chief Executive Officer (or, in the absence of the Chief Executive Officer, another senior officer) may act as a temporary Chair to deal with:

LGA71

- a) the receipt of nominations for the election of Mayor; and
- b) the election of Mayor.

## **L2.6 DETERMINING THE ELECTION OF MAYOR**

LGA90

- 1) The Councillor who receives the majority of votes cast must be declared elected as Mayor.
- 2) For the purpose of sub-clause (1), the following will apply:
  - a) where only one nomination is received, that Councillor must be declared elected as Mayor; or
  - b) where two nominations are received, the Councillor with the majority of votes cast must be declared elected as Mayor; or
  - c) where there are more than two nominations received, the candidate with the fewest number of votes cast must be eliminated (and if more than one of them, the candidate determined by lot. i.e. by random or chance selection) and the names of the remaining candidates must be put to the vote again. This procedure must continue until there are only two candidates remaining and when only two candidates remain, then paragraph (b) applies;
  - d) if at any time during the process of electing the Mayor there is an equal number of votes cast then the election must be determined by lot.

## **L2.7 APPOINTMENT OF DEPUTY MAYOR**

When Council appoints a Deputy Mayor the provisions contained in this Part for the election of the Mayor will apply to the election of the Deputy Mayor.

LGA73

This position will also perform the role of Acting Mayor as required from time to time as provided for under the *Local Government Act 1989*. The position will deputise for the Mayor as required from time to time when the Mayor's other duties prevent his or her attendance at specific activities or functions.

## **PART 3**

### **COUNCIL MEETINGS**

#### ***DIVISION 1 - NOTICES AND AGENDAS***

##### **L3.1 DATES, TIMES AND PLACES OF MEETINGS**

The date, time and place of all Council Meetings are to be fixed by Council from time to time.

LGA89

Public notice must be given at least seven days before the holding of:

- an ordinary or special council meeting; or
- a meeting of a special committee comprised solely of Councillors; unless urgent or extraordinary circumstances prevent this.

In this case Council must give notice as soon as practicable and must specify the urgent and extraordinary circumstances in the meeting minutes.

##### **L3.2 COUNCIL MAY ALTER MEETING DATES, TIMES AND PLACES**

The Council may change the date, time and place of any Council Meeting that has been fixed and must provide public notice as per L3.1.

LGA89

##### **L3.3 SPECIAL COUNCIL MEETINGS**

The Mayor or at least three Councillors may by a written notice call a special meeting of the Council.

LGA84

The Council may by a resolution call a special meeting of the Council.

The notice necessary to call a meeting in accordance with section 84 of the Act must be delivered by the Chief Executive Officer in sufficient time to enable reasonable notice to be given to Councillors.

LGA84

##### **L3.4 NOTICE OF MEETING**

A notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be delivered to every Councillor at least five days before an Ordinary meeting, a Special meeting, or a Special Committee meeting of Council.

Agendas for Council meetings are available for inspection at Council Service Centres and on the Council web site.

### **L3.5 LEAVE OF ABSENCE**

Notices of meeting and/or agenda will continue to be delivered to any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing not to do so during the period of his or her absence.

### **L3.6 SPECIAL (EMERGENCY) MEETINGS**

- 1) In the case of an emergency, the Chief Executive Officer or, in the absence of the Chief Executive Officer a senior officer, may call or postpone a meeting of Council, without the necessity to comply with clause L3.4 provided reasonable attempts are made to notify every Councillor.
- 2) The Chief Executive Officer or senior officer must submit a full written report of the circumstances requiring his or her action under clause L3.6 1) to the next Ordinary meeting of Council.

## ***DIVISION 2 - QUORUMS***

### **L3.7 NUMBERS FOR QUORUM**

A quorum shall be a majority of the elected Councillors.

### **L3.8 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 declaration of conflicts of interest by the majority of 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 special dispensation for the affected Councillors to be sought from the Minister.

L3.9

## ***DIVISION 3 – ADJOURNMENT OF MEETING***

### **L3.9 ADJOURNMENT AND RESUMPTION OF MEETING**

- 1) The Chair or Council may adjourn any meeting until a time and place to be determined at the time of the adjournment.
- 2) For the purpose of stating the time to which the meeting is adjourned, it is in order for the time to be indicated as at the adjournment or conclusion of another meeting or event.

L3.8

### **L3.10 NOTICE FOR ADJOURNED MEETING**

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

## **PART 4**

### **MINUTES**

#### **L4.1 KEEPING OF MINUTES**

The Council must keep minutes of each meeting of the Council. The Chief Executive Officer is responsible for the keeping of minutes on behalf of Council.

LGA93

- 1) In keeping the minutes of any meeting, the Chief Executive Officer must record:
  - a) the names of Councillors and whether they are present, an apology, on leave of absence, etc.;
  - b) the name and organisational title of officers in attendance;
  - c) the name of any other person participant in the business of the meeting and the organisation they represent or the capacity of their attendance;
  - d) the arrival and departure time of Councillors, and participating officers during the course of the meeting (including any temporary departures or arrivals);
  - e) every motion and amendment moved, including the mover (and seconder, if relevant) of any motion or amendment;
  - f) the outcome of every motion, that is, whether it was put to the vote and the result of either carried, lost, withdrawn, lapsed or amended.;
  - g) identification of those motions voted on during a closed session of a meeting of Council; and
  - h) the manner in which each Councillor votes, either for or against a motion or amendment (unless carried unanimously or when voting is in a closed session of a meeting of Council);
  - i) where a valid Division is called, a table of the names of every Councillor and the way their vote was cast; either for or against;
  - j) details of failure to achieve or maintain a quorum;
  - k) details of any question directed or taken upon notice;
  - l) details of any deputations made to Council;
  - m) the time and reason for any adjournment of the meeting or suspension of standing orders;

- n) disclosure of a conflict of interest of a Councillor, member or officer; and
  - o) any other matter the Chief Executive Officer believes should be recorded to clarify the intention of the meeting or the reading of the Minutes.
- 2) In addition, the Minutes should:
- a) be consecutively page numbered;
  - b) record the business of the meeting in the order it actually happened; and
  - c) contain consecutive item numbers that are clearly headed with a subject title and where appropriate, sub-titles and file references.

#### **L4.2 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.

#### **L4.3 OBJECTION OF CONFIRMATION OF MINUTES**

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

- a) state the item or items with which they are dissatisfied; and
- b) propose a motion clearly outlining the alternative wording to amend the minutes.

#### **L4.4 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.

## **PART 5**

### **BUSINESS OF MEETINGS**

#### **L5.1 THE ORDER OF BUSINESS**

The order of business will be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government.

L5.3

#### **L5.2 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 Council.

#### **L5.3 CHIEF EXECUTIVE OFFICER MAY INCLUDE ITEMS ON AN AGENDA**

The Chief Executive Officer may include any matter on an agenda that he or she thinks should be considered by the meeting.

#### **L5.4 COUNCILLORS' REPORTS**

A Councillor may report on any interaction with citizens, organisations or groups external to the Council that has occurred since the previous Council Meeting. As a general rule these reports will be presented for Council's information, but may result in a request for the preparation of a report by Council Officers for consideration at a subsequent Council Meeting.

#### **L5.5 URGENT AND OTHER BUSINESS**

Business that has not been listed on the agenda may only be considered as urgent or other business following a brief outline of the issue and the reason for it being raised, and a resolution of Council carried by the majority of votes cast to admit the business as an item to be considered.



## **PART 6**

### **SUSPENSION OF STANDING ORDERS**

#### **L6.1 SUSPENSION OF STANDING ORDERS**

Any one or more of the rules and regulations contained in this local law may be suspended for a particular purpose by resolution of Council.

L6.2

The purpose of suspension of standing orders is to enable the formalities of meeting procedure to be temporarily set aside where deemed necessary.

#### **L6.2 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.

## **PART 7**

### **OTHER MEETING PROCEDURES**

#### ***DIVISION 1 - MATTERS NOT PROVIDED FOR***

##### **L7.1 MATTERS NOT PROVIDED FOR**

Where a situation has not been provided for or cannot be dealt with under this local law, Council may determine the matter by resolution.

#### ***DIVISION 2 - MOTIONS***

##### **L7.2 CHAIR'S DUTY**

Any motion or amendment which:

- a) is defamatory; or
- b) is objectionable in language or nature; or
- c) is outside the powers of the Council; or
- d) is not relevant to the item of business of 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.

##### **L7.3 MOVING A MOTION**

The procedure for any motion is:

- a) the mover must state the motion without speaking to it;
- b) the motion must be seconded by a Councillor other than the mover;
- c) if a motion is not seconded it will lapse for want of a seconder;
- d) the mover addresses Council on the motion;
- e) the seconder addresses Council on the motion;
- f) the Chair must then ask, "Is the motion opposed?"

- g) where any Councillor indicates opposition, the Chair will invite Councillors to debate the motion, commencing with those opposed and following with those in support of the motion;
- h) where no Councillor indicates opposition, the Chair must provide an opportunity for Councillors to speak in turn as they desire.

#### **L7.4 RIGHT OF REPLY**

- 1) The mover of an original motion that has not been amended has a right of reply to matters raised during debate once debate has been exhausted. L7.17
- 2) After the right of reply has been taken, the motion must be put to the vote immediately without any further discussion or debate.

#### **L7.5 NO RIGHT OF REPLY FOR AMENDMENTS**

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

#### **L7.6 MOVING AN AMENDMENT**

A motion having been moved and seconded may be amended by leaving out, inserting or adding words that must be consistent with the intent of the original motion and framed so as to complement it as an intelligible and consistent whole.

#### **L7.7 WHO MAY PROPOSE AN AMENDMENT**

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

#### **L7.8 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. However, debate must be confined to the terms of the amendment. L7.17

#### **L7.9 HOW MANY AMENDMENTS MAY BE PROPOSED**

Any number of amendments may be proposed to a motion but the Chair may accept only one amendment 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.

### **L7.10 AN AMENDMENT ONCE CARRIED**

If the amended motion is carried, it then becomes the substantive motion before the Chair.

### **L7.11 FORESHADOWING MOTIONS**

At any time during 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.

### **L7.12 WITHDRAWAL OF MOTIONS**

Before any motion is put to the vote, it may be withdrawn with leave of Council.

### **L7.13 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.

### **L7.14 CHAIR MAY SEPARATE MOTIONS**

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

### **L7.15 MOTIONS IN WRITING**

The Chair may require any motion to be submitted in writing.

### **L7.16 DEBATE MUST BE RELEVANT TO THE MOTION**

- 1) Debate must always be relevant to the question before the Chair.
- 2) Where debate is not relevant, the Chair will request the speaker to confine debate to the subject motion.
- 3) 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 not speak further in respect of the matter then before the Chair.

## **L7.17 SPEAKING TIMES**

Unless a motion for an extension of time has been carried, the maximum speaking times will be:

L7.4  
L7.8  
L7.18

- a) the mover of a motion five (5) minutes;
- b) the mover of a motion when exercising their right of reply three (3) minutes;
- c) any other Councillor three (3) minutes.

## ***DIVISION 3 - EXTENSION OF SPEAKING TIME***

### **L7.18 BY RESOLUTION OF COUNCIL**

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

L7.17

## ***DIVISION 4 - VOTING***

### **L7.19 HOW DETERMINED**

To determine a question before a meeting, 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.

### **L7.20 RECORDING THE VOTE**

The nature of the vote of each Councillor (i.e. whether for or against the motion or amendment) will be recorded in the minutes of the Council Meeting unless: -

- a) the outcome of the vote is unanimous, in which case the minutes will record that result; or
- b) voting is in a closed session of a meeting of Council.

### **L7.21 BY SHOW OF HANDS**

Unless the Council resolves otherwise, voting on any matter will be by show of hands, in a manner that ensures each Councillor's action is clearly visible to the Chair.

LGA90

### **L7.22 BY SECRET BALLOT**

In any closed session of Council, the Council may resolve to deal with a matter by secret ballot.

LGA90

### **L7.23 SYSTEM OF VOTING BY SECRET BALLOT**

The Chief Executive Officer must establish and administer a system for voting by secret ballot in a closed session of a meeting of Council to ensure that the privacy of the vote is maintained.

LGA90

### **L7.24 WHEN A DIVISION PERMITTED**

- 1) Subject to Clause L7.27 a division may be requested by any Councillor on any matter, in order to clarify the accuracy of the Chair's determination of the vote.
- 2) The request must be made to the Chair immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

L7.27

### **L7.25 PROCEDURE FOR A DIVISION**

Once a division has been requested the Chair will call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion.

L7.27

### **L7.26 BETWEEN THE ORIGINAL VOTE AND THE DIVISION**

Where a division is requested after the original vote has been taken, the question will be decided on the division and the fact that there may be a difference between the result obtained when the original vote was taken and the result obtained on the division will be disregarded.

### **L7.27 DIVISION NOT ALLOWABLE IF VOTING BY SECRET BALLOT**

If the question on any matter is determined by secret ballot in a closed session of a meeting of Council, a request to the Chair for a Division must not be accepted.

### **L7.28 NO DISCUSSION ONCE DECLARED**

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

## ***DIVISION 5 - POINTS OF ORDER***

### **L7.29 PROCEDURE FOR POINT OF ORDER**

A Councillor raising a point of order must:

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

### **L7.30 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.

### **L7.31 CONTRADICTION OR OPINION**

Expressing a difference of opinion or contradicting a speaker will not be treated as a point of order.

### **L7.32 INTERRUPTION FOR POINT OF ORDER**

- 1) A Councillor who has the floor must not be interrupted unless called to order.
- 2) If called to order, a Councillor must remain silent until the Councillor raising the point of order has been heard and the point of order decided.

### **L7.33 CHAIR TO DECIDE**

The Chair will decide all points of order by stating the provision or rule that he or she considers applicable to the point raised without entering into any discussion or comment.

### **L7.34 CHAIR MAY ADJOURN TO CONSIDER**

- 1) As soon as a point of order is raised, the Chair must rule on the point of order or adjourn the meeting to consider it.

- 2) All other matters before Council will be suspended until the point of order is decided.

### **L7.35 FINAL RULING ON A POINT OF ORDER**

- 1) 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 move a motion of dissent on the point of order.
- 2) A motion of dissent on a point of order must contain the provision, rule or practice in substitution for the Chair's ruling.
- 3) 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. He or she will retain his or her right to a second vote.
- 4) 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.

### ***DIVISION 6 - NOTICE OF MOTION***

#### **L7.36 MUST BE LISTED ON AGENDA**

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

#### **L7.37 PROCEDURE**

A Councillor may give notice of motion on any matter he or she wants discussed at a meeting by delivering a notice of motion to the Chief Executive Officer at least five working days prior to the meeting at which it is proposed to be considered.

Any notice of motion must comprise the subject, the motion proposed and supporting rationale.

#### **L7.38 REJECTION OF A VAGUE NOTICE**

The Chief Executive Officer:

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



### **L7.39 LISTING NOTICE ON AGENDA**

Unless the notice specifies a particular meeting date, the Chief Executive Officer will list the notice of motion on the next appropriate meeting agenda.

L7.36

If more than one notice of motion is received, the Chief Executive Officer will list the notices of motion in the order they were received.

### **L7.40 REGISTER OF NOTICES**

The Chief Executive Officer must sequentially number every notice of motion received and maintain them in a register.

### **L7.41 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 may be amended.

### **L7.42 IF LOST**

If a notice of motion is lost, a similar motion cannot again be put before the Council for at least three (3) months from the date it was last lost, unless the Council resolves for the notice to be re-listed at a specific future meeting.

## ***DIVISION 7 - NOTICE OF AMENDMENT OR RESCISSION***

### **L7.43 PROCEDURE TO RESCIND A DECISION**

Any three Councillors may propose a motion to rescind a decision of Council provided:

- a) a notice is delivered to the Chief Executive Officer within 48 hours of the Council Meeting outlining the decision to be rescinded; and
- b) the motion has not been acted upon.

### **L7.44 PROCEDURE TO AMEND A DECISION**

Any three Councillors may propose a motion to amend a decision of Council provided:

- a) the previous motion has not been acted upon; and
- b) a notice is delivered to the Chief Executive Officer outlining:
  - i) the decision to be amended; and
  - ii) the meeting and date when the decision was made.

#### **L7.45 LISTING NOTICE ON AGENDA**

The Chief Executive Officer will list the notice of amendment or rescission on the next appropriate meeting agenda, together with a brief report outlining the criteria required for the motion to be amended or rescinded.

If more than one notice of amendment or rescission is received, the Chief Executive Officer will list the notices in the order they were received.

#### **L7.46 CRITERIA TO AMEND OR RESCIND A DECISION**

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

#### **L7.47 IF LOST**

If a notice of amendment or rescission is lost, a similar motion cannot be put before the Council for at least three (3) calendar months from the date it was last lost.

#### **L7.48 IF NOT MOVED**

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

#### **L7.49 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.

#### **L7.50 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 Council.

#### **L7.51 REGISTER OF NOTICES**

The Chief Executive Officer must sequentially number every notice of amendment or rescission received and maintain the notices in a register.

## **DIVISION 8 - PUBLIC PARTICIPATION**

### **L7.52 REQUEST TO SPEAK ON AGENDA ITEM**

- 1) Citizens may be allowed to speak on a specific item or items listed on the agenda for the current Ordinary or Special meeting of Council provided they relate to:

- Notices of Motion and/or Rescission;
- Deferred Business; or
- Officer's Reports.

**except** those items pertaining to:

- a) planning applications that have been the subject of a prior Planning Consultation Meeting;
  - b) an item previously subject to a section 223 process in accordance with the *Local Government Act 1989* where no substantial or material changes have been recommended from the section 223 process.
- 2) Requests to speak on an agenda item will be heard immediately prior to Council considering the relevant agenda item.
  - 3) Citizens will request to speak by completing the relevant form, giving details of their name and address and the item on which they wish to speak, and submitting the form to the Council officer on duty before the meeting's published commencement time on the day of the Council meeting.
  - 4) Citizens will be heard only. Under this clause no questions will be considered by the Chair, Councillors or officers, and no debate will be entered into. At the discretion of the Chair, questions from Councillors seeking clarification or additional detail may be permitted.
  - 5) Unless determined otherwise by the Chair prior to any speaker addressing Council on a particular item, each speaker on that item will be allowed no more than five minutes.

### **L7.53 REQUESTS TO SPEAK ON INITIATIVES TO FURTHER COUNCIL'S VISION**

- 1) At Ordinary meetings of Council community groups and registered businesses may be allowed to speak on initiatives they are seeking to implement that will further Council's vision for East Gippsland as specified in its four-year Council Plan.

Presentations on the following matters are excluded:

- a) planning applications that have been or are scheduled to be the subject of a Planning Consultation Meeting;
  - b) matters that have been or are scheduled to be subject to a section 223 process in accordance with the *Local Government Act 1989*;
  - c) matters that have already been the subject of a Council resolution;
  - d) matters of a confidential or sensitive nature.
- 2) Properly constituted organisations will request to address Council by completing the relevant form, giving details of the organisation's name and address, explaining the initiative on which they wish to speak and how it relates to Council's vision, and submitting the form to the Chief Executive Officer at least 10 days prior to the Council meeting at which they wish to speak.
  - 3) Applicants will be contacted by a Council officer at least five days prior to the Council meeting to confirm whether or not their request to speak has been approved.
  - 4) The presenting organisation will be heard only. Under this clause no questions from the organisation will be considered by the Chair, Councillors or officers and no debate will be entered into. At the discretion of the Chair, questions from Councillors seeking clarification or additional detail may be permitted.
  - 5) The total duration of this agenda item will be at the discretion of the Mayor but will generally not exceed 15 minutes.
  - 6) A maximum of three representatives from any properly constituted organisation may address Council on the group's initiative.
  - 7) The name of the organisation, the description of the initiative as provided in the relevant form and the name of all presenters must be recorded in the minutes as an official record of presentations made to Council.

#### **L7.54 PUBLIC QUESTION TIME**

- 1) At every Ordinary meeting of Council an opportunity will be provided for written questions to be submitted by members of the community who are present, or have a representative present, at the meeting and to have a response provided. Only questions which have been submitted in accordance with the provisions of this clause will be eligible to be read out during Public Question Time.
- 2) The duration of Public Question Time will be at the discretion of the Mayor but will generally not exceed fifteen minutes in duration.

- 3) To ensure the *bona fide* of the person asking a question of Council or the relevance of the question to Council business, questions submitted to Council must be in writing, state the name and address of the person submitting the question and generally be in the format prescribed by Council.
- 4) Questions must be received at Council's Corporate Centre via hand delivery, postal delivery or email no less than four hours before the meeting's published commencement time on the day of the Ordinary meeting; or handed to the Council officer on duty no later than fifteen minutes before the meeting's published commencement time on the day of the Ordinary meeting.
- 5) A question may be split into a maximum of two parts and all parts of the question must be relevant to the same subject of enquiry. If more than two parts to a question are received, only the first two parts will be considered.
- 6) No person may submit more than two questions at any meeting. If more than two questions are received, only the first two questions received will be considered.
- 7) The Mayor will invite submitters to read out their question. The submitter must read their question as written. If the submitter does not wish to read their question the Chief Executive Officer will read it to those present at the meeting on their behalf.
- 8) The Chief Executive Officer or at the Chief Executive Officer's discretion, another senior officer present at the meeting will respond to questions.
- 9) The Chair or the Chief Executive Officer may require a question to be put on notice. If a question is put on notice, a written response must be sent to the person who asked the question and a copy of the answer included in the adopted minutes of the meeting at which the question was put.
- 10) A question may be disallowed by the Chair if the Chair determines that it:
  - a) relates to a matter outside the duties, functions and powers of Council;
  - b) is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - c) deals with a question that has been put and answered previously at the same Ordinary meeting; or a matter that has been the subject of a question submitted to two earlier Ordinary meetings of Council;
  - d) is intended to embarrass a Councillor or a Council Officer;
  - e) relates to any matter that is subject to the provisions of section 89(2) of the Act, as per L7.55 below.
- 11) Any question that has been disallowed by the Chair must be made available to any other Councillor upon request.

- 12) All questions and answers must be as brief as possible, and no further questions arising out of anything said will be allowed.
- 13) Like questions may be grouped together and a single answer provided.
- 14) The name of the person submitting the question, the wording of the question and the response must be recorded in the minutes, as an official record of the questions submitted to the meeting.
- 15) Sub-clause (1) does not apply where Council has resolved to close the meeting in accordance with section 89(2) of the Act, as detailed as L7.55 below.

### **L7.55 MEETING CLOSED TO MEMBERS OF THE PUBLIC**

A Council or special committee may resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:

LGA89(2)

- a) personnel matters;
- b) the personal hardship of any resident or ratepayer;
- c) industrial matters;
- d) contractual matters;
- e) proposed developments;
- f) legal advice;
- g) matters affecting the security of Council property;
- h) any other matter which the Council or special committee considers would prejudice the Council or any person;
- i) a resolution to close the meeting to members of the public.

If a Council or special committee resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

### **L7.56 MEMBERS OF THE PUBLIC IN ATTENDANCE**

Unless in closed session, any meeting of a Council or a special committee must be open to members of the public.

LGA89

The Chair will manage the process of members of the public addressing Council to ensure that due courtesy and respect to the Council and the processes under which it operates is extended.

Any member of the public in attendance at the Council Meeting must take direction from the Chair whenever called upon to do so.

### **L7.57 RECORDING OF PROCEEDINGS**

Council reserves the right to operate film, photography or tape to broadcast Council meetings or reproduce images and sound ('record') or generate equipment to reproduce such material. No other person has the right to record Council meetings unless approval has been granted by the Chair.

Submitters requesting to be heard on an agenda item and questions received under Agenda Item 1.7 Public Question Time maintain the right to refuse or decline recordings as requested before their submission takes place to protect their rights and privacy.

### **L7.58 CHAIR MAY REMOVE**

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

LGA238

*Penalty: 5 Units*

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

### **L7.59 PETITIONS**

- 1) A petition addressed to Council will be presented formally to the next practicable Ordinary meeting of Council provided the petition: -
  - a) includes the request of the petitioners on each page of the petition;
  - b) includes the name, address and signature of all petitioners; and
  - c) has been assessed by the Chief Executive Officer as meaningful and appropriate for formal presentation.
- 2) Notwithstanding clause (1) above, petitions lodged with Council with respect of development applications will be formally notified to Council through the relevant Planning Officer's report to Council on the application.

### **L7.60 SIGNING PETITIONS - OFFENCE**

Any person who fraudulently signs a petition that is presented to Council is guilty of an offence.

*Penalty: 2 Units*

## **L7.61 COUNCILLOR PRESENTING PETITION - OBLIGATIONS**

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

L7.55

- a) the petition satisfies the criteria outlined in L7.59;
- b) they are familiar with the contents and purpose of the petition; and
- c) the petition is not derogatory or defamatory.

## ***DIVISION 9 - ADDITIONAL DUTIES OF CHAIR***

### **L7.62 THE CHAIR'S DUTIES AND DISCRETIONS**

In addition to the duties and discretions provided in the local law, the Chair:

L7.2  
LGA238

- a) must not accept any motion, question or statement that is derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public; and
- b) must call to order any person who is disruptive or unruly during any meeting.



## **PART 8**

### **ENFORCEMENT AND PENALTIES**

#### **L8.1 OFFENCES**

- 1) Where any provision in this local law requires that something may not be done, any person who does that act is guilty of an offence.
- 2) Where any provision in this local law requires that something may not be done between specified hours of the day or night, during specified month of the year, on days meeting a recognised category or in or at specified locations or specified parts of those locations, any person who does that act between the hours, during the months, on the days, in or at the location or a specified part, is guilty of an offence.
- 3) Where any provision in this local law requires that something must be done, any person who fails to do that act is guilty of an offence.

#### **L8.2 PENALTIES**

Schedule 1 of this local law sets out penalties for infringement notice purposes that may be issued as an alternative to prosecution in respect of offences against this local law where the Council or its authorised officers determine to proceed by infringement notice.

SCH1

#### **L8.3 INFRINGEMENT NOTICE**

- 1) An authorised officer may serve a local law infringement notice in a form that complies with Section 12 of the *Infringements Act 2006* on a person that the authorised officer believes has committed an infringement referred to in Schedule 1 requiring the person to pay the penalty for that infringement within twenty-eight (28) days of the issue of the infringement notice.
- 2) If the infringement notice is not withdrawn and the person pays to Council the amount referred to in the infringement notice within the period of twenty-eight (28) days or such further period as the Council or an authorised officer may allow, no conviction will be recorded against that person for the alleged infringement.
- 3) If a person issued with an infringement notice makes a written representation to the Council within twenty-eight (28) days of the issue of the infringement notice, the representation must be brought to the attention of the Chief Executive Officer.

- 4) The Chief Executive Officer may consider any written representations and any other relevant information and must consider any such material brought to his or her attention within twenty-eight (28) days of the issue of the infringement notice to which it relates.
- 5) The Chief Executive Officer may at any time withdraw an infringement notice either as a result of consideration of any representations made or with a view to prosecuting for an offence under this local law.
- 6) Subject to sub-clause (11), the decision of the Chief Executive Officer on any representations received will be final.
- 7) Where an infringement notice is withdrawn, the person upon whom it was served is entitled to a refund of any payment that person has made on the infringement notice.
- 8) If the penalty referred to in an infringement notice has been paid within twenty-eight (28) days of its issue, and no representation has been received by the Council or its officers, no decision may be made to withdraw the infringement notice and prosecute the offence.
- 9) Any withdrawal of an infringement notice may be served in accordance with section 234 of the Act.
- 10) In the event of the failure of a person served with an infringement notice to pay the amount specified within twenty-eight (28) days of the issue of the notice or such further time as the Council or the authorised officer may permit, Council or the authorised officer may pursue the matter by prosecuting for an offence or by taking any steps which may be available for enforcing penalties by registration of infringement notices.
- 11) Any person served with a local law infringement notice is entitled to disregard the notice and defend the prosecution in Court.

**EAST GIPPSLAND SHIRE COUNCIL**  
**MEETING PROCEDURE LOCAL LAW**

**SCHEDULE 1**

**PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT OF  
OFFENCES AGAINST THIS LOCAL LAW**

**OFFENCES AGAINST LOCAL LAW NO. 1**

	<b>PENALTY UNITS</b>
L7.58 Failure to comply with Chair's direction	5
L7.60 Fraudulently signing a petition	2