

# Local Law Community Impact Statement (LLCIS)

**Surf Coast Shire Council**

---

## Local Law Community Impact Statement

*Proposed Local Law No. 2 of 2016 – Meeting Procedures and Common Seal*

---

Council provides the following information to the community in respect of the proposed Local Law.

### PART A – General comments

#### Background

Under Section 91(1) of the Local Government Act 1989 (the Act) a Council must make a local law governing the conduct of meetings of the Council and special committees.

Whilst the current Local Law No. 2 of 2011 does not sunset until 2021, a review was considered to be necessary at this time in order to bring more structure, update language, provide for recording of meetings, include provision for the role of Deputy Mayor, provide the Chairperson with authority to warn or ask Councillors who are not following meeting protocols to leave the meeting and to update the signing clause for the Common Seal.

The Act specifies, in various sections, a number of matters which must be included in the local law. Except as provided in the Act, conduct of meetings is at Council's discretion although over time accepted practices have evolved to ensure the orderly conduct of meetings.

#### Objectives

The proposed local law contains the following objectives:

- (a) regulating and controlling the procedures governing the conduct of meetings of the Council and special committees appointed by Council;
- (b) regulating and controlling the election of Mayor, Deputy Mayor, and the Chairpersons of any special committees;
- (c) regulating and controlling the use of Council's Seal;
- (d) promoting and encouraging community participation in the system of local government;
- (e) providing a mechanism 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;
- (f) providing for the administration of the Council's powers and functions; and
- (g) providing generally for the peace, order and good government of the municipal district.

# Local Law Community Impact Statement (LLCIS)

## PART B – Comments on proposed local law overall

<p>Measures of success of proposed Local Law</p>	<p>As this local law is required under the Act, Council will continue to monitor any changes to the legislation to ensure it remains up to date.</p> <p>The success of the proposed local law will be measured by the extent to which it enhances the governance framework and decision making processes of Council including open and transparent meetings and that legislative requirements are met.</p> <p>Performance indicators are also included in the Local Government Performance Reporting Framework and Community Satisfaction Survey.</p>
<p>Existing legislation that might be used instead</p>	<p>No existing legislation can be used in place of this local law, however this local law incorporates actions that Councillors and officers must take as a result of requirements in the Act including section 91 which requires Council to have this local aw.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>Section 71 – Election of the Mayor</li> <li>Section 73 – Precedence of the Mayor and election of a temporary Chair in the Mayors absence</li> <li>Section 79 – Disclosure of Conflict of Interest</li> <li>Section 80A – Requirements to observe assembly of Councillors procedures</li> <li>Section 80B – Members of Council staff and Councillors to disclose conflicts of interest</li> <li>Section 80C – Persons to disclose interests to Council when providing advice</li> <li>Section 84 – Special Meetings</li> <li>Section 90 – Voting</li> <li>Section 91 - Conduct of meetings</li> <li>Section 93 – Minutes of meetings</li> </ul>
<p>State legislation more appropriate</p>	<p>Not applicable. Councils are required by state legislation to make local laws relating to Council and special committee meeting procedures.</p>
<p>Overlap of existing legislation</p>	<p>There is no overlap of other legislation in this local law.</p>
<p>Overlap of planning scheme</p>	<p>There is no overlap of the planning scheme with this local law.</p>
<p>Risk assessment</p>	<p>Not having a local law of this kind would be a breach of the Act therefore Council is avoiding this exposure by complying with this requirement. The local law sets out a format to the Council, its staff and the public for how Council meetings will operate in conformity with the Act and other generally accepted meeting procedure guidelines.</p>
<p>Legislative Approach adopted</p>	<p>Council believes in applying minimum imposition on the community through its local laws. This proposed local law reflects this approach by providing only for those matters required under the Act in relation to general meeting procedures and efficiency of running the meetings such as:</p>

## Local Law Community Impact Statement (LLCIS)

	<ul style="list-style-type: none"> <li>• adoption of standard meeting procedures</li> <li>• a small number of reasonable penalties for offences under the local law</li> <li>• a minimum number of offences being created.</li> </ul>
Restriction of competition	Council has conducted a review of this proposed local law in accordance with National Competition Principles and believes that because of the nature and content of this local law there is no restriction of competition.
Penalties	<p>Council has compared the general level of penalties provided for in this proposed local law with those included in other similar sized Councils and its neighbouring Councils. All penalties are of a similar nature and amount.</p> <p>Council feels that the penalties imposed are sufficient to act as a deterrent for most offences and also reflect the seriousness of the offences.</p>
Permits	There are no permits applicable under this local law.
Fees	There are no fees applicable under this local law.
Performance standards or prescriptive	This local law is prescriptive rather than performance based because of the nature of the requirement of the Act in which Council is required to make a local law to include prescriptive clauses that govern meeting procedures.
Comparison with neighbouring and like Councils	<p>Council has compared this local law with the existing meeting procedure local laws of the following Councils and has found it to be consistent with the intent of those Local Laws including:</p> <p>City of Greater Geelong  Golden Plains Shire  Colac Otway Shire  Queenscliffe Borough  City of Whitehorse  Wyndham City  City of Ballarat.</p>
Charter of Human Rights	<p>Council has assessed this proposed local law for compatibility with the Charter of Human Rights and Responsibilities and has not found any instances where the rights of any individual are impacted upon.</p> <p>There are minor restrictions on allowing the freedom of expression as it is necessary to regulate how the public can ask questions or participate in Council meetings. The restrictions are intended to provide for the efficient and orderly conduct of the meetings and are considered reasonable and justifiable pursuant to section 7(2) of the Act.</p> <p>Members of the public will be asked to sign in before entering the meeting and this is considered to be a reasonable health and safety measure which will also allow follow-up where needed. Council retains records of visitors to the Civic Offices during normal business hours and this additional request for information is in line with this practice.</p>
National	Council has assessed this proposed local law for compatibility with the

# Local Law Community Impact Statement (LLCIS)

<p>Competition Policy</p>	<p>National Competition Policy Principles and has not found any occurrences where the rights of any individual are impacted upon.</p>
<p>Consultation Meetings</p>	<p>In developing this local law Council has/ will undertake the following processes:</p> <ul style="list-style-type: none"> <li>• Review of document by Council staff through comparison with other Councils' local laws.</li> <li>• Reference made to 'The Better Practice Local Laws Guidelines'</li> <li>• Discussion with Councillors and the Executive team at a Council workshop</li> <li>• Review of changes in legislation that might impact on the content of the local law</li> <li>• Council consideration of a formal draft of the local law at an Ordinary Council meeting</li> <li>• Submissions on the adopted proposed local law called for in accordance with Section 223 of the Act.</li> <li>• Council to hear any person making a submission if a person so requests at a Hearing of Submissions meeting.</li> <li>• Council to formally consider a report outlining any submissions and any proposed changes to the proposed local law</li> <li>• Council to adopt the local law and advertise this in local papers and the Government Gazette after which time the local law comes into force.</li> </ul>
<p>Submissions</p>	<p>Surf Coast Shire Council is now calling for public submissions from anyone affected by this proposed local law. Submissions close on <b>[allow clear 28 days]</b>.</p> <p>There is no set format for submissions but they need to be provided in written form and submitted to:</p> <p>Wendy Hope, Manager Governance and Risk          PO Box 350, Torquay VIC 3228 or in person at the Civic Offices, 1 Merrijig Drive, Torquay.</p> <p>Persons unable to make a submission in written form can contact the Council Office to make alternative arrangements by telephoning Wendy Hope, Manager Governance and Risk on 5261 0600.</p> <p>Persons making submissions may make a request to be heard at a Hearing of Submissions meeting. Council will set a time and place for such submitter to be heard.</p>

# Local Law Community Impact Statement (LLCIS)

## PART C – Comments on specific parts or provisions of the proposed Local Law

Major and minor content issues have been addressed in the proposed local law. All content changes have been broken down clause by clause in the following table, however major content changes include:

- Provision for routine recording of meetings;
- Inclusion of the role of Deputy Mayor;
- Introducing time limits for meetings;
- Updating of the signing clause for the Common Seal;
- Provision for members of the public to be asked to sign an attendance record;
- Improvements to language, clarity and order of the sections;
- Provision for confidential minutes to be confirmed in the closed section of the meeting.

Specifically the changes are as follows:

Section	Proposed Changes
Part 1 – section 7	Inclusion of definition of Deputy Mayor and Acting Mayor.
Part 2 – section 9	Inclusion of section for election of Deputy Mayor.
Part 3 – section 11	Amended from 'oath of office' to 'pledge'
Part 3 – section 14	Provision for an electronic agenda and a 'digital by default' approach.
Part 3 – section 15	Time limits for Council meetings introduced
Part 3 – section 17	Conflict of interest requirements updated and a declaration form included.
Part 3 – section 18	Clarification of confirmation of minutes and provision to confirm later in the meeting where appropriate. Closed minutes to be confirmed in the closed section of the meeting.
Part 3 – section 18	Members of the public will be asked to sign in before entering the meeting for health and safety/ follow-up purposes and in line with the normal practice during business hours.
Part 3 – section 19	Introduction of a provision for petitions and joint letters not to be admitted where the matters listed have already been acted on.
Part 3 – section 20	Public question time procedures clarified.
Part 3 – section 21	Procedures for submitting notices of motion updated from four working days before Council meeting to seven to align with the practice of sending out the Council agenda a week before the meeting. Administrative procedures clarified.
Part 3 – section 23	Explanation of procedures for formal motions expanded.
Part 3 – section 26	Addition of the Audit Chairperson's right to request a report to be tabled at any Council meeting.

## Local Law Community Impact Statement (LLCIS)

Section	Proposed Changes
Part 3 – section 27	Wider explanation of procedures around requests for leave of absence from Councillors.
Part 3 – section 28	Change of language from 'in camera' to 'closed' meetings as per the Act.
Part 5 – various sections	Reordered to ensure more logical flow.
Part 5 – section 33	Addition of the requirement that a motion or amendment must not be defamatory or objectionable in language or nature.
Part 5 – section 34	Explanation of procedure for considering recommendations and motions expanded.
Part 5 – section 35	Explanation of procedure for amending and foreshadowing motions expanded and reordered.
Part 5 – section 36	Explanation of procedure for Councillor questions expanded.
Part 5 – section 37	Provision for the motion to be repeated before putting to the vote.
Part 5 – section 39	Voting section updated to clarify that Councillors can abstain from voting but that this decision should not be taken lightly. Inclusion of paragraph that 'Not participating in decisions taken by Council could be seen as an abrogation of a Councillor's oath of office and responsibility to represent the community'.
Part 5 – section 40	Requirement for names of any Councillors who abstain from voting in a Division to be recorded along with the names of those voting for and against the motion.
Part 5 – section 42	Provision for Council to routinely record Council meetings without the need for resolution each time and flexibility for this to take whatever format Council decides into the future eg visual. Provision for Council to resolve not to record a particular meeting is also available.
Part 5 – section 43	Provision for a motion to dissent following the Chairperson's ruling on a point of order.
Part 5 – section 51	Provision added for a person appointed by Council to maintain security to be able to remove anyone who is disrupting the meeting from the chamber or meeting.
Part 8 – section 58	Updating of Council's signing clause.
Schedule A	Public Question form updated with new privacy statement, contact information and improvements to format.
Schedule B	Rescission Motions form updated – language updated.
Schedule C	Procedural motions updated and further clarification provided.
Schedule D	Conflict of Interest Declaration form added.