



WELLINGTON
SHIRE COUNCIL

The Heart of Gippsland

LOCAL LAW NO. 1-2014

**PROCESSES OF MUNICIPAL
GOVERNMENT
(MEETINGS AND COMMON SEAL)
LOCAL LAW**

The Resolution for amending this Local Law was passed at a meeting of the
Wellington Shire Council held on 21 October 2014

The Common Seal of WELLINGTON)
SHIRE COUNCIL was hereunto affixed)
this *6* day of *November* 2014)
in accordance with Local Law No. 1)
in the presence of:.....)



Chief Executive Officer

**Processes of Municipal Government
(Meetings and Common Seal) Local Law**

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PART 1

PRELIMINARY

L1.1 TITLE

This Local Law is the Wellington Shire Council Processes of Municipal Government (Meeting and Common Seal) Local Law and 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 the Wellington Shire Council through its formal Processes of Municipal Government (Meeting and Common Seal) Local Law 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 conduct of meetings including:
 - (i) the notice required for meetings;
 - (ii) the keeping of minutes.
- (d) to provide for the administration of the Council's powers and functions; and
- (e) to provide generally for the peace, order and good government of the municipal district.

L1.3 SCOPE OF THIS LOCAL LAW

This Local Law will apply to all meetings of the Council including all Special Committees of the Council.

L1.4 THE POWER TO MAKE THIS LOCAL LAW

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

L1.5 THE OPERATIONAL DATE OF THIS LOCAL LAW

This Local Law 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.

L1.6 THE DATE THIS LOCAL LAW CEASES OPERATION

Ends on the 10th anniversary of the day on which it commenced operation.

L1.7 WORDS USED IN THIS LOCAL LAW

WORDS	MEANING
Act	Means the <i>Local Government Act 1989</i>
Chair	Refers to the Chairperson.
Chairperson	The person who chairs the meeting of the Council or Special Committee of the Council.
Councillor	Means a person who is an elected member of the Council.
Council Meeting	Includes Ordinary and Special Meetings of the Council.
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.
Chief Executive Officer	Means the Chief Executive Officer appointed by the Council
Regulations	Means the Local Government (General) Regulations 2004
Suspension of Standing Orders	Means the suspension of the rules and regulations contained in this Local Law.

PART 2

COUNCIL MEETINGS

DIVISION 1 - NOTICES AND AGENDAS

L2.1 DATES AND TIMES OF MEETINGS

The date, time and place of all Council meetings are to be fixed by the Council from time to time and reasonable notice must be provided to the public.

Seven (7) days notice of each Ordinary Council meeting must be provided to the public.

L2.2 COUNCIL MAY ALTER MEETING DATES

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.

L2.3 SPECIAL COUNCIL MEETINGS

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

Three (3) days notice of each Special Meeting must be provided to the public or such public notice as practicable given the circumstances.

L2.4 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:

- (a) For an ordinary meeting at least 7 days before the meeting; and
- (b) For a special meeting at least 3 days before the meeting; and
- (c) For a special committee meeting at least 3 days before the meeting.

DIVISION 2 - QUORUMS

L2.5 ORDINARY COUNCIL MEETINGS

The quorum required for ordinary Council meetings must comprise a majority number of Councillors.

L2.6 SPECIAL COUNCIL MEETINGS

The quorum required for special Council meetings must comprise at least a majority number of Councillors.

L2.7 SPECIAL COMMITTEE MEETINGS

The quorum for special committee meetings must comprise at least a majority number of members.

L2.8 INABILITY TO GAIN A QUORUM

If after thirty (30) minutes of the scheduled starting time of any meeting or adjournment a quorum cannot be obtained, those present must defer the meeting for a period not exceeding seven (7) days from the date of the deferment.

L2.9 INABILITY TO MAINTAIN A QUORUM

If during any meeting a quorum cannot be achieved and maintained, those present must adjourn the meeting for a period not exceeding seven (7) days from the date of the adjournment.

L2.10 INABILITY TO ACHIEVE OR MAINTAIN A QUORUM DUE TO CONFLICT OF INTEREST OF COUNCILLORS

If during any meeting or adjournment a quorum cannot be maintained due to the declaration of conflict of interest by the majority of Councillors, the Chief Executive Officer or, in his or her absence a senior officer, may hold the matter under consideration over for a length of time sufficient to enable special dispensation for the affected Councillors to be sought from the Minister.

L2.11 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, e-mail, in person or by some other means will be sufficient.

PART 3

MINUTES

L3.1 KEEPING OF MINUTES

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

L3.2 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.

L3.3 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 they are dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

PART 4

BUSINESS OF MEETINGS

L4.1 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.

L4.2 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 the Council.

L4.3 CHIEF EXECUTIVE OFFICER MAY INCLUDE ITEMS ON AN AGENDA

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

PART 5

ADDRESSING THE MEETING

L5.1 ALL PERSONS TO STAND

- (1) Except for the Chairperson, any Councillor or person who addresses the Council meeting must stand and direct all remarks through the Chair.
- (2) At all other meetings persons may remain seated but must direct remarks through the Chair.

L5.2 EXCEPTIONS

The Chairperson may permit any Councillor or person to remain seated whilst addressing the Chair, for reasons of sickness, infirmity or disability or for any other reason as determined by the Chairperson.

L5.3 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 the Council.

L5.4 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.

L5.5 INTERRUPTION FOR POINT OF ORDER

A Councillor who has the floor must not be interrupted unless called to order by the Chair 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.

L5.6 USE OF TITLES

Councillors and Officers must designate each other by their official titles.

PART 6

OTHER MEETING PROCEDURES

DIVISION 1 - MATTERS NOT PROVIDED FOR

L6.1 MATTERS NOT PROVIDED FOR

Where a procedure or any situation has not been provided for or cannot be dealt with under this Local Law the Council may have regard to the rules, forms and usages of Parliament of the State of Victoria insofar as they are applicable to the proceedings of the Council.

DIVISION 2 - MOTIONS

L6.2 CHAIRPERSON'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 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 Chairperson.

L6.3 MOVING A MOTION

The procedure for any motion is-

- (a) The mover must state the motion without speaking to it;
- (b) Unless the motion is a formal motion, it must be seconded by a Councillor other than the mover;
- (c) If a motion is not seconded and is not a formal motion, the motion will lapse for want of a seconder;
- (d) If the motion is seconded, the Chairperson must ask: "Is the motion opposed?";
- (e) If the motion is not opposed the mover of the motion may address the Council on the motion.
- (f) If no Councillor indicates opposition, the motion must be declared to be carried without being voted on and will be treated as being passed unanimously;

- (g) If a Councillor indicates opposition, then the Chairperson must request-
 - (i) the mover to address the Council on the motion;
 - (ii) the seconder to address the Council on the motion (who may, without speaking on the motion, reserve his or her address until later in debate);
 - (iii) any Councillor opposed to debate the motion; and
 - (iv) any other Councillors for and against the motion to debate in turn.

L6.4 RIGHT OF REPLY

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

L6.5 NO RIGHT OF REPLY FOR AMENDMENTS

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

L6.6 MOVING AN AMENDMENT

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 do not substantively alter the original intent of the motion. The amendment must be framed so as to complement the original motion as an intelligible and consistent whole.

L6.7 WHO MAY PROPOSE AN AMENDMENT

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

L6.8 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 but debate must be confined to the terms of the amendment.

L6.9 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.

L6.10 AN AMENDMENT ONCE CARRIED

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

L6.11 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.

L6.12 WITHDRAWAL OF MOTIONS

Before any motion is put to the vote it may be withdrawn by the mover and seconder with leave of the Council.

L6.13 SEPARATION OF MOTIONS

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

L6.14 CHAIRPERSON MAY SEPARATE MOTIONS

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

L6.15 MOTIONS IN WRITING

The Chairperson may require any complicated or lengthy motion to be submitted in writing.

L6.16 DEBATE MUST BE RELEVANT TO THE MOTION

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

DIVISION 3 - MEETING PROCEDURE

L6.17 HOW DETERMINED

Unless determined as per L6.3, to determine a motion before a meeting, the Chairperson 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. In the event of there being a tied vote of those in favour and those against, the Chairperson shall have a second or casting vote.

L6.18 BY SHOW OF HANDS

Unless the Council resolves otherwise voting on any matter will be by show of hands.

L6.19 BY SECRET BALLOT

Voting at a meeting that is open to the public must not be in secret.

L6.20 SYSTEM OF VOTING BY SECRET BALLOT

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

L6.21 WHEN A DIVISION PERMITTED

- (1) Subject to Clause L6.24 a division may be requested by any Councillor on any matter.
- (2) The request must be made to the Chairperson either immediately prior to or immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

L6.22 PROCEDURE FOR A DIVISION

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

L6.23 BETWEEN THE ORIGINAL VOTE AND THE DIVISION

Where a division is requested after the original vote has been taken, the motion 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.

L6.24 DIVISION NOT ALLOWABLE IF VOTING BY SECRET BALLOT

If the motion on any matter is determined by secret ballot (refer to Clause L6.19) a request to the Chairperson for a Division must not be accepted.

L6.25 NO DISCUSSION ONCE DECLARED

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

- (a) A Councillor requests that his or her opposition to the motion be recorded in the minutes or a register maintained for that purpose; or
- (b) A subsequent notice of motion follows a rescission motion.

L6.26 FAILURE TO VOTE

When called upon by the Chair, all Councillors present at a meeting must vote and any Councillor being present who is not debarred by law from voting, and does not vote is guilty of an offence against this Local Law.

DIVISION 4 - POINTS OF ORDER

L6.27 CHAIRPERSON TO DECIDE

The Chairperson 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.

L6.28 CHAIRPERSON MAY ADJOURN TO CONSIDER

- (1) The Chairperson may adjourn the meeting to consider a point of order otherwise she or he must rule on it as soon as it is raised.
- (2) All other matters before the Council will be suspended until the point of order is decided.

L6.29 FINAL RULING ON A POINT OF ORDER

The decision of the Chairperson in respect to a point of order raised will not be open for discussion and will be final and conclusive.

L6.30 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.

L6.31 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.

L6.32 CONTRADICTION OR OPINION

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

L6.33 ADJOURNMENT AND RESUMPTION OF MEETING

- (1) The Chairperson or the 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 that the meeting is adjourned to it is in order for the time to be indicated at the adjournment or conclusion of another meeting or event.

L6.34 FORMAL MOTIONS

- (1) Unless otherwise prohibited a formal motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Formal motions are not required to be seconded.
- (3) The mover of a formal motion must not have moved seconded or spoken to the motion before the Chair or any amendment of it.
- (4) A formal motion cannot be moved by the Chairperson.
- (5) Unless otherwise provided, debate on a formal motion is not permitted and the mover does not have a right of reply.
- (6) Unless otherwise provided a formal motion cannot be amended.

L6.35 LAYING THE MOTION ON THE TABLE

A motion "*That the (motion, letter, document, report etc.) lay on the table*"-

- (a) is a formal motion which may be debated and if carried, has the effect of adjourning any further debate on the matter until such time (if any) as the Council resolves to take the motion from the table; and
- (b) any further debate on the matter cannot take place until such time (if any) as the Council resolves to take the motion from the table; and
- (c) if such a motion is carried in respect to an amendment, both the original motion and the amendment will be adjourned; and
- (d) a motion to take the motion from the table is required to enable debate on the matter to proceed.

L6.36 PROCEEDING TO THE NEXT BUSINESS

A motion "*That the meeting proceed to the next business*"-

- (a) is a formal motion which cannot be moved during the election of Chairperson; and
- (b) if carried in respect to an original motion, the Chairperson must direct the meeting to the next item of business; and
- (c) if carried in respect to a formal motion, the formal motion is immediately disposed of and debate upon the original motion may proceed; and
- (d) if carried in respect to an amendment, the amendment is immediately disposed of and debate upon the original motion may proceed but no similar amendment can be moved at that meeting or any adjournment of it.

L6.37 THE PREVIOUS MOTION

- (1) A motion *“That the motion be NOT now put”*-
 - (a) is a formal motion which cannot be moved while there is an amendment before the Chair or during the election of a Chairperson; and
 - (b) if carried, the original motion to which it relates cannot be dealt with at that meeting or any adjournment of it; and
 - (c) if lost, the original or substantive motion to which it relates must be put to the vote immediately without any further debate or amendment.
- (2) The Chairperson has the discretion to reject a motion for the previous motion if the matter is contentious by nature or has not been adequately debated.

L6.38 THE CLOSURE

A motion *“That the motion be now put”*-

- (1)
 - (a) is a formal motion which if carried in respect to an original motion, that original motion must be put to the vote immediately without any further debate, discussion or amendment;
 - (b) if carried in respect to an amendment, that amendment must be put to the vote immediately without any further debate or discussion and debate on the original motion may continue unaffected;
 - (c) if lost, debate may continue unaffected; and
- (2) The Chairperson has the discretion to reject a motion for closure if the motion upon which it is proposed has not been sufficiently debated.

L6.39 ADJOURNING THE DEBATE

A motion *“That the motion and amendments now before the meeting be adjourned until.....”*-

- (a) is a formal motion which cannot be moved while any person is speaking or during the election of a Chairperson; and
- (b) on which debate is permitted but may only be amended in relation to the time, date and place of the proposed adjournment.

DIVISION 5 - NOTICE OF MOTION

L6.40 MUST BE LISTED ON AGENDA

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

L6.41 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 outlining the subject and the motion proposed for discussion to the Chief Executive Officer.

L6.42 LISTING NOTICE ON AGENDA

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

L6.43 REGISTER OF NOTICES

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

L6.44 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, except if the notice of motion is to confirm a previous resolution of the Council.

L6.45 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 will be lost.

L6.46 IF LOST

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

DIVISION 6 - NOTICE OF AMENDMENT OR RESCISSION

L6.47 PROCEDURE

A Councillor may propose a motion to amend or rescind a decision of the Council provided:

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

L6.48 LISTING NOTICE ON AGENDA

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

L6.49 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.

L6.50 IF LOST

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

L6.51 IF NOT MOVED

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

L6.52 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.

L6.53 WHEN 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.

L6.54 REGISTER OF NOTICES

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

L6.55 URGENT AND OTHER BUSINESS

Business which has not been listed on the Agenda may only be raised as urgent or other business by resolution agreed by the Council.

DIVISION 7 - PUBLIC PARTICIPATION

L6.56 DURING MEETINGS

- (1) (a) At every ordinary meeting of the Council time may be allocated to enable any member of the community to question the Council.
- (b) At every ordinary meeting of the Council time may be allocated to enable any member of the community to address the Council.

- (2) Sub-clause (1) does not apply where the Council has resolved to close the meeting in respect of a matter under section 89(2) of the Act.
- (3) The Chairperson will allocate 3 minutes of time to each person who wishes to question or 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 question or address the Council.
- (4) The Council may decide to defer discussion to a later date.
- (5) Public question time will have an extension of 3 minutes duration if determined by the Chair

L6.57 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 Chairperson whenever called upon to do so.

L6.58 CHAIRPERSON MAY REMOVE

- (1) Any person who has been called to order including any Councillor who fails to comply with the Chairperson's direction will be liable to be removed from the meeting.
- (2) The Chairperson has a discretion to cause the removal of any person including a Councillor who disrupts any meeting or fails to comply with a direction.

L6.59 PETITIONS AND JOINT LETTERS

A petition or joint letter presented to the Council must lay on the table for a period determined by the Council but not exceeding the next two Council Meetings. No motion, other than to receive the petition or joint letter may be accepted by the Chairperson, unless the Council unanimously agrees to deal with it earlier.

L6.60 COUNCILLOR PRESENTING PETITION - OBLIGATIONS

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

- (a) they are 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 CHAIRPERSON

L6.61 THE CHAIRPERSON'S DUTIES AND DISCRETIONS

In addition to the duties and discretions provided in this Local Law, the Chairperson must-

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

PART 7.

ELECTION OF MAYOR, ANY DEPUTY MAYOR AND OTHER CHAIRPERSONS

L7.1 ELECTION OF MAYOR AND CHAIRS

- (1) The meeting to fill the vacancy of Mayor will be held:
 - (a) as soon as practicable after the declaration of the result of the election; or
 - (b) where the position of Mayor otherwise becomes vacant, as soon as practicable after the vacancy has occurred.
- (2) The Chief Executive Officer or member of Council staff nominated by the Chief Executive Officer must open the meeting at which the Mayor is to be elected, and call for nominations for the election of a Councillor as a temporary chair. They will deal with:
 - (a) the receipt of nominations for the election of Mayor;
 - (b) the fixing of allowances payable to the Mayor and Councillors;
 - (c) the election of the Mayor.
- (3) The election of the Mayor will be carried out by show of hands.
- (4) In determining the election of the Mayor, the following will apply:
 - (a) where only one nomination is received, that Councillor must be declared elected;
 - (b) where two nominations are received, the Councillor with the majority of votes cast will be declared elected;
 - (c) where there are two or more nominations and all votes cast are equally divided between two or more nominees, the election must be determined by lot;
 - (d) where there are more than two nominations received and the result has not been determined under paragraphs (b) or (c) the nominee with the fewest number of votes cast must be eliminated (and if more than one of them, the nominee determined by lot) and the names of the remaining nominees must be put to the vote again;

- (e) the procedure in paragraph (d) must be repeated until the circumstances in paragraph (c) apply or until there are only two nominees remaining in which case a further vote must be taken and the nominee with a majority will be declared elected or, if there is an equal division of votes, the election must be determined by lot.

(5) Determining the Election of any Deputy Mayor

If Council resolves that there be an office of Deputy Mayor, the Deputy Mayor is to be elected in the manner provided for in clause L7.1. The role of the Deputy Mayor is to be taken as Acting Mayor for purposes of S 73 of the *Local Government Act 1989*

If the mayor is unable to attend an ordinary or special council meeting for any reason

- (a) any Deputy Mayor will be acting Chair;
 - (b) if no Deputy Mayor has been elected, an acting Chair may be elected.
- (6) Any election by council of an acting chair for an ordinary or special council meeting or a special committee will follow the same procedure as that for an election of the mayor.

PART 8.

COMMON SEAL, LOGO & LETTERHEAD

L8.1 THE COUNCIL’S COMMON SEAL

- (1) The Chief Executive Officer must ensure the security of the Council’s Common Seal at all times.
- (2) 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.
- (3) Any person who uses the Council’s Common Seal without authority is guilty of an offence.
- (4) Any person who uses any replica of the Council’s Seal without authority is guilty of an offence.
- (5) For Ceremonial documents, the sealing clause may provide for the signature of the Mayor, Councillor and Chief Executive Officer.

Wellington Shire Council Common Seal reads as:

The Common Seal of WELLINGTON)
 SHIRE COUNCIL was hereunto affixed)
 this day of 2....)
 in accordance with Local Law No. 1)
 in the presence of:)

.....
 Chief Executive Officer

PART 9.

ENFORCEMENT AND PENALTIES

L9.1 OFFENCES

- (1) Where any provision in this Local Law requires that something must not be done under any circumstances, any person who does that act is guilty of an offence.
- (2) 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.

L9.2 PENALTIES

- (1) A person found guilty of an offence under this Local Law is subject to a penalty of 20 penalty units.
- (2) Schedule 1 of this Local Law sets out penalties for infringement notices which may be issued as an alternative to prosecution in respect of offences against this Local Law where Council or its Authorised Officers determine to proceed by infringement notice.

L9.3 INFRINGEMENT NOTICE

- (1) An Authorised Officer may serve an infringement notice under this Local Law in the form of Schedule 2 on any person whom the officer believes has committed an infringement referred to in Schedule 1 requiring the person to pay the penalty for the infringement within 28 days of the issue of the infringement notice.
- (2) If the infringement notice is not withdrawn and the person pays to the Council the amount required by the infringement notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, no further action will be taken.
- (3) Any person issued with an infringement notice may make a written representation to the Council, marked to the attention of the Chief Executive Officer, officer in charge of Local Laws administration or any other person authorised by the Council to receive such representations within 28 days of the issue of the infringement notice.
- (4) A written representation received by the Council in accordance with sub-clause (3) within 28 days of the issue of the infringement notice must be considered, together with any other relevant information received within that period, by the relevant authorised person under sub-clause (3).
- (5) Subject to sub-clause (11) the decision of the Chief Executive Officer or officer in charge of Local Laws administration or such other person as the Council authorises on any representations received will be final.
- (6) The Council or the Chief Executive Officer or officer in charge of Local Laws administration or such other person as the Council authorises may at any time withdraw an infringement notice either as a result of consideration of any representation made or with a view to prosecuting for an offence.

- (7) Where an infringement notice is withdrawn, the person upon whom it was served must be refunded any payment which that person has made on the infringement notice.
- (8) If the penalty referred to in an infringement notice has been paid within 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 after the expiry of 28 days from the issue of the infringement notice.
- (9) A withdrawal of an infringement notice must 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 28 days of the issue of the notice or such further time as the Council or the Authorised Officer may permit, the 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 an infringement notice under this Local Law is entitled to disregard the notice and defend the prosecution in Court.

SCHEDULE 1

**PROCESSES OF MUNICIPAL GOVERNMENT
(MEETING AND COMMON SEAL) LOCAL LAW**

WELLINGTON SHIRE COUNCIL

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

OFFENCES AGAINST LOCAL LAW NO. 1- 2014 PENALTY UNITS

L6.57	Failure to comply with Chairpersons direction	20
L8.1	Using Council's Common Seal without authority.....	20

SCHEDULE 2

**PROCESS OF MUNICIPAL GOVERNMENT
(MEETING AND COMMON SEAL) LOCAL LAW
WELLINGTON SHIRE COUNCIL
INFRINGEMENT NOTICE**

Will be in the form provided by Council and in compliance with the requirements of Section 117 of the *Local Government Act 1989*.