

MACEDON RANGES SHIRE COUNCIL

GOVERNANCE LOCAL LAW 2021

DATE RESOLVED BY COUNCIL

[DATE]

COMMENCEMENT DATE:

[DATE]

END DATE:

[DATE]

RESPONSIBLE DIRECTORATE:

Chief Executive Office

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PART 1 - PRELIMINARY

1. Title

This Local Law will be referred as the Macedon Ranges Shire Council “Governance Local Law 2021.”

2. Purpose of this Local Law

The purpose of this Local Law is to:

- (1) revoke the existing Meeting Procedure Local Law No 11;
- (2) regulate the use of Council’s common seal; and
- (3) create offences in relation to conduct at meetings and the unauthorised use of the Council’s common seal.

3. Authorising Provision

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

4. Commencement and End Dates

This Local Law:

- (1) commences on [DATE] and operates throughout the municipal district; and
- (2) ends on the 10th anniversary of the day on which it commenced operation unless revoked earlier by Council resolution.

5. Revocation of Meeting Procedures Local Law

On the commencement of this Local Law, Meeting Procedure Local Law No.11 is revoked.

6. Definitions

In this Local Law:

“Authorised Officer” means a person appointed as an Authorised Officer under section 224 of the *Local Government Act 1989*;

“Chairperson” means the Chairperson of a meeting and includes an acting, a temporary and a substitute Chairperson;

“Chief Executive Officer” means the Chief Executive Officer of Council or the person acting in, or performing the position of Chief Executive Officer;

“common seal” means the common seal of Council;

“Council” means Macedon Ranges Shire Council;

“Council officer” means a person employed by Council (either directly or indirectly under a labour hire contract) for the duration of their employment;

“Delegated committee” means a delegated committee established under section 63 of the *Local Government Act 2020*;

“Director” means a Council officer appointed by the Chief Executive Officer to Council’s Executive Leadership Team, for the duration of that appointment;

“Mayor” means the Mayor of Council;

“Meeting” means a properly constituted meeting of Council or a Delegated Committee;

“Municipal district” means the municipal district of Council;

“Offence” means an act of default contrary to this Local Law; and

“Penalty units” has the same meaning as in section 110(2) of the *Sentencing Act 1991*.

PART 2 - COUNCIL'S COMMON SEAL

Introduction

Council's common seal is a device which formally records the collective will of Council. The provisions in this Part are designed to protect the integrity of the common seal and describe when it may be affixed to a document.

7. Unauthorised Use of the Common Seal

- (1) A person must not use the common seal except in accordance with this Local Law.
- (2) A person must not use the common seal or any device resembling the common seal without the authority of Council or the Chief Executive Officer.

Penalty: 5 penalty units.

8. Council's common seal

- (1) The Chief Executive Officer must ensure the security of the common seal at all times.
- (2) The common seal must only be used with the authority of Council or the Chief Executive Officer exercising a relevant delegation.
- (3) Where the Chief Executive Officer authorises the common seal to be affixed to any document, the Chief Executive Officer must ensure that:
 - (a) the sealed document is allocated a seal register number; and
 - (b) a description of the sealed document is entered into the seal register.
- (4) Unless Council resolves otherwise, the affixing of the common seal to any document must be attested to by the signatures of one Councillor and the Chief Executive Officer unless (5) below applies.
- (5) If the document to be sealed relates to a matter in which the Chief Executive Officer has an interest, the functions of the Chief Executive Officer in affixing the seal will be performed by a Director with no interest in the matter.

9. Limitations on exercising delegated powers

- (1) Before authorising the use of the common seal on behalf of Council the Chief Executive Officer must;
 - (a) consider a report relating to the subject matter of the document proposed to be sealed; and
 - (b) be satisfied that the Council officer who has the function of approving the subject matter of the document proposed to be sealed, has

recommended and approved that the document be executed by or on behalf of Council; and

- (c) ensure compliance with any provisions of the *Local Government Act 1989* and the *Local Government Act 2020* in relation to the subject matter of the document.
- (2) The Chief Executive must not authorise the use of the common seal:
- (a) in relation to a document which is a contract or agreement exceeding the delegation of the Chief Executive Officer; or
 - (b) which involves expenditure not contained in a budget or approved by Council; or
 - (c) where the document proposed to be sealed relates to the employment of the Chief Executive Officer.

10. Form of sealing clause

- (1) Where the common seal is affixed to a document on the authority of the Council, the sealing clause must contain words to the following effect:

THE COMMON SEAL of MACEDON RANGES SHIRE COUNCIL is hereto affixed in the presence of –

[INSERT TITLE OF WITNESS 1]

[INSERT TITLE OF WITNESS 2]

- (2) Where the common seal is affixed to a document on the authority of the Chief Executive Officer on behalf of Council, the sealing clause must contain words to the following effect:

THE COMMON SEAL of MACEDON RANGES SHIRE COUNCIL is affixed on behalf of Council by authority of the Chief Executive Officer in the presence of –

[INSERT TITLE OF WITNESS 1]

[INSERT TITLE OF WITNESS 2]

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PART 3 - OFFENCES

Introduction: Maintaining order at meetings and ensuring the efficient and effective conduct of Council business requires that certain standards of conduct are upheld, with the force of law if necessary.

11. Offences

It is an offence for:

- (1) Any person to display any placards or posters in the Council Chamber or in any building where a Meeting is being held or is about to be held that the Mayor or Chief Executive Officer reasonably considers will create an unreasonable risk to the health and safety of people in the Council Chamber or building where the Meeting is being held.

Penalty: 2 penalty units
- (2) Any person to display, including by wearing, any item or words that are offensive, indecent, insulting or objectionable, including words which the Mayor or Chief Executive Officer reasonably considers are racist, sexist, homophobic or transphobic, in the Council Chamber or the building where the Meeting is being held.

Penalty: 4 penalty units
- (3) Any person to obstruct the entrance to the Council Chamber or a building where a Meeting is being held.

Penalty: 4 penalty units
- (4) Any person, other than the Chief Executive Officer (or other Council officer authorised by the Chief Executive Officer) to operate photographic, audio or video recording equipment or any other recording device at any Meeting without obtaining prior consent of the Chairperson or to continue to do so when consent is revoked by the Chair.

Penalty: 4 penalty units if the offence relates to a meeting that is open to the public: or

10 penalty units if the offence relates to a meeting that is closed to the public.
- (5) A Councillor to refuse to withdraw a statement which the Chairperson reasonably considers is defamatory, indecent, abusive, offensive, disorderly or objectionable on the request of the Chairperson.

Penalty: 5 penalty units

- (6) A Councillor to refuse to satisfactorily apologise when called upon twice by the Chairperson in relation to a statement made by that Councillor which the Chairperson reasonably considers is defamatory, indecent, abusive, offensive, disorderly or objectionable.

Penalty: 5 penalty units

- (7) Any person, not being a Councillor, having been called to order by the Chairperson, to act in a manner which is disorderly, riotous, indecent, abusive, offensive, disorderly or objectionable.

Penalty: 5 penalty units

- (8) Any person, not being a Councillor, who has been called to order under subclause (6) who refuses or fails to leave the Council chamber after being requested by the Chairperson to leave.

Penalty: 5 penalty units

- (9) Any person to fail to comply with a direction of the Chairperson in relation to the conduct of the meeting and the maintenance of order at the meeting.

Penalty: 2 penalty units

- (10) A Councillor to refuse to leave the chamber following suspension by the Chairperson.

Penalty: 5 penalty units

Part 8: Enforcement

12. Infringement notices

- (1) As an alternative to prosecution, an Authorised Officer may issue an infringement notice under the **Infringements Act 2006** for any breach of this Local Law.
- (2) The fixed penalty in respect of an infringement is the amount set out in Schedule 1 to the Local Law.

MACEDON RANGES SHIRE COUNCIL
GOVERNANCE LOCAL LAW 2021
SCHEDULE 1

PENALTIES FIXED FOR INFRINGEMENT NOTICE PURPOSES

Local Law Provision	Offence	Penalty Units
Clause 7	Unauthorised use of the common seal.	3 penalty units
Clause 10(1)	Displaying placards and posters likely to create a risk	1 penalty unit
Clause 10(2)	Displaying offensive items or words	1 penalty unit
Clause 10(3)	Obstructing the entrance to the Council Chamber of building where a meeting is being held	1 penalty unit
Clause 10(4)	Operating recording devices without obtaining prior consent	1 penalty unit – meeting open to the public 3 penalty units – meeting closed to the public
Clause 10(5)	Councillor failing to withdraw a defamatory or objectionable statement	3 penalty units
Clause 10(5)	Failing to apologise for a defamatory or objectionable statement	3 penalty units
Clause 10(7)	Continuing to act in a manner considered disorderly or objectionable	3 penalty units
Clause 10(8)	Refusing or failing to leave the Council Chamber on request	3 penalty units
Clause 10(9)	Failing to comply with a direction of the Chairperson	1 penalty unit
Clause 10(10)	Councillor refusing to leave the Chamber following suspension	3 penalty units