



## Local Law Community Impact Statement

### ***Proposed Local Law No. 1 of 2019 – Council Meeting Procedures & Common Seal***

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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.

The current Local Law No. 1 of 2019 will sunset until in May 2019. A review has been undertaken and the draft Local Law No. 1 of 2019 – Council Meeting Procedures & Common Seal (local law) has been prepared. In addition to the local law, the accompanying draft revised Council Policy 4.4 Public Participation in Council Meetings (Question Time, Presentations & Submissions, Petitions & Joint Letters) has been prepared.

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) Facilitate good governance;
- (b) Regulate proceedings for the election of the Mayor and Deputy Mayor;
- (c) Regulate proceedings of Ordinary and Special Meetings of Council;
- (d) Promote and encourage community participation in the system of local government, by providing mechanisms within the meeting arrangements for the Council to ascertain the community's views and expectations;
- (e) Regulate and control the use of Council's Common Seal;
- (f) Provide generally for the peace, order and good government of the municipal district; and
- (g) To repeal Local Law No. 1 of 2009 – Processes of Municipal Government and Local Law No. 1A of 2011 Processes of Municipal Government.

## PART B – Comments on proposed local law overall

Measures of success of proposed Local Law	<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>
Existing legislation that might be used instead	<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 law.</p> <p>For example:</p> <p>Section 71 – Election of the Mayor</p> <p>Section 73 – Precedence of the Mayor and election of a temporary Chair in the Mayors absence</p> <p>Section 79 – Disclosure of Conflicts of Interest</p> <p>Section 80A – Requirements to observe assembly of Councillors procedures</p> <p>Section 80B – Members of Council staff and Councillors to disclose conflicts of interest</p> <p>Section 80C – Persons to disclose interests when providing advice</p> <p>Section 84 – Special Meetings</p> <p>Section 90 – Voting</p> <p>Section 91 - Conduct of meetings</p> <p>Section 93 – Minutes of meetings</p>
State legislation more appropriate	<p>Not applicable. Councils are required by state legislation to make local laws relating to Council and special committee meeting procedures.</p>
Overlap of existing legislation	<p>There is no overlap with other legislation in this local law. Some clauses expand on or clarify requirements in the Local Government Act 1989.</p>
Overlap of planning scheme	<p>There is no overlap of the Planning Scheme with this local law.</p>
Risk assessment	<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 framework for Council, its staff and the public to govern how Council meetings will operate in conformity with the Act and other generally accepted meeting procedure guidelines.</p>
Legislative Approach adopted	<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> <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>• the 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 considers that the penalties imposed are sufficient to act as a deterrent for most offences and are therefore appropriate. They are scaled to reflect the impact of the offence and are in line with the state government's penalty regime.</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> <ul style="list-style-type: none"> <li>• Colac Otway Shire</li> <li>• City of Casey</li> <li>• City of East Gippsland</li> <li>• City of Whitehorse</li> <li>• Wyndham City</li> <li>• City of Ballarat</li> <li>• Shire of Campaspe</li> <li>• Surf Coast Shire</li> <li>• City of Greater Bendigo</li> <li>• City of Greater Geelong</li> <li>• Mildura Rural City Council.</li> </ul>
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. Some examples of particular considerations are outlined below.</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. When asking a question of Council, members of the public will be requested to state their name and suburb for the minutes. Such information can be withheld on request.</p> <p>Penalties apply for disorderly behaviour (see penalties section) and the Chair has the right to request that anyone acting in a disorderly way leaves the meeting room. This is considered to be a proportionate response and necessary to ensure the smooth running of the meeting. The Chair can suspend proceedings if this is deemed necessary.</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.</p>

	<p>Where open Council meeting proceedings are recorded and posted on the Council's website, anyone who does not wish their voice to be heard on the recording is requested to make this known to a member of staff who will make alternative arrangements. Signage will make it clear that the proceedings are being recorded.</p>
National Competition Policy	<p>Council has assessed this proposed local law for compatibility with the National Competition Policy Principles and has not found any occurrences where the rights of any individual are impacted upon.</p>
Consultation Meetings	<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.</li> <li>• Comparison of document with other Councils' local laws.</li> <li>• Reference made to 'The Better Practice Local Laws Guidelines'.</li> <li>• Review by full management team.</li> <li>• Review by independent lawyer.</li> <li>• Discussion with Councillors at a Councillor Briefing.</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 meeting of Council.</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>
Submissions	<p>Golden Plains Shire Council is now calling for public submissions from anyone affected by this proposed local law.</p> <p><b>Submissions close at 5pm on Sunday 7 April 2019</b> and can be provided in the following ways:</p> <ul style="list-style-type: none"> <li>• Through Council's website at <a href="https://www.goldenplains.vic.gov.au/consultations">https://www.goldenplains.vic.gov.au/consultations</a></li> <li>• Emailed to <a href="mailto:enquiries@gplains.vic.gov.au">enquiries@gplains.vic.gov.au</a></li> <li>• By mail addressed to the Chief Executive Officer, Golden Plains Shire Council, PO Box 111, Bannockburn, VIC 3331.</li> </ul> <p>Persons making a submission may make a request in their submission to be heard at a meeting of Council (or nominate a representative to speak on their behalf), if they wish to do so. Council will set a time and place for such submitters to be heard.</p> <p>The proposed local law, Community Impact Statement and draft revised Council Policy 4.4 Public Participation in Council Meetings (Question Time, Presentations &amp; Submissions, Petitions &amp; Joint Letters) are also available for inspection at Council's Bannockburn offices, 2 Pope Street, Bannockburn, VIC, 3331.</p> <p>Anyone requiring further information can contact Candice Holloway, Corporate Governance Coordinator on (03) 5220 7111.</p>

## PART C – Comments on specific parts or provisions of the proposed local law

Some 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:

- Updated definitions and clarification of meaning of words and phrases;
- Improvements to language, clarity and structure;
- Strengthened processes in relation to:
  - election of the Mayor and Deputy Mayor;
  - Notice of Motion;
  - Notice of Motion to rescind or amend; and
  - suspension of standing orders.
- Introduction of public question time;
- Introduction of requirement for at least five signatures to constitute a petition or joint letter;
- Introduction of provisions to allow digital recording of proceedings;
- Updating of the signing clause for the Common Seal.

Specifically the proposed changes are as follows:

Section	Heading	Proposed Changes
Title page	Local Law No. 1 of 2019 Council Meeting Procedures & Common Seal	Renamed Local Law. Formerly Local Law No. 1 of 2009 Processes of Municipal Government.
Contents page	Contents	Reviewed and re-aligned structure.
Part 1 - clause 2	Preliminary Provisions - Objectives of this local law	Simplified and refined language.
Part 1 - clause 5	Preliminary Provisions - Definitions	Reviewed and updated definitions, meaning of words and phrases used within.
Part 2	Election of Mayor & Deputy Mayor	Renamed Part. Formerly Election of Mayor and other Chairpersons.
Part 2 - clause 6	Election of Mayor & Deputy Mayor - Procedure for Election of Mayor	<p>Provided clarity and strengthened procedures around the process for the election of Mayor.</p> <p>Inclusion of new provision that nominations to be a candidate for Mayor are to be provided in writing to the Chief Executive Officer, no later than a date and time to be fixed by the Chief Executive Officer.</p> <p>Inclusion of new provision for the Chief Executive Officer to preside over the election of Mayor, rather than a Councillor.</p>
Part 2 - clause 7	Election of Mayor & Deputy Mayor - Procedure for Election of Deputy Mayor or Acting Mayor	Inclusion of new provisions that Part 2 - clause 6 - Procedure for Election of Mayor will apply for the election of Deputy Mayor or Acting Mayor.

Part 2 - clause 8	Election of Mayor & Deputy Mayor - Mayor to take the Chair	Inclusion of provisions to clarify when the Mayor is required to take the Chair following the election of Mayor.
Formerly Part 3	Formerly Council Meetings	Removed in part. Provisions still applicable now included in new Part 3 - Conduct of Business & Meetings.
Part 3	Conduct of Business & Meetings	New Part. Clauses 9 - 27 reviewed and updated to strengthen governance processes and procedures.  Incorporated provisions from Council Policy - 4.1 Council Meetings - Business Papers. Policy to be revoked following adoption of local law.
Part 3 - clause 10	Conduct of Business & Meetings - Attendance & Notice of Meetings	Provision of an electronic agenda as standard practice.
Part 3 - clause 15	Conduct of Business & Meetings - Leave of Absence	Inclusion of provisions to clarify process for any Councillors seeking a leave of absence from Council duties.
Part 3 - clause 16	Conduct of Business & Meetings - Disclosure of Conflict of Interest	Language simplified and streamlined.
Part 3 - clause 18	Conduct of Business & Meetings - Notice of Motion	Clarification of provisions for notice of motions, including process to submit, timeframe and requirements.  Inclusion of provision that a notice of motion must be signed by the Councillor intending to move the motion and also, by another Councillor willing to second the motion for the purpose of debate.
Part 3 - clause 19	Conduct of Business & Meetings - Notice of Motion to Rescind or Amend	Clarification of circumstances under which a previous resolution of Council may be rescinded or amended.  Inclusion of provision that a notice of motion to rescind or amend must be signed by the Councillor intending to move the motion to rescind or amend and also, by another Councillor willing to second the motion to rescind or amend for the purpose of debate at the meeting in which it will be considered.  New requirement for notices of rescission or amendment to have at least a period of 3 months elapse before a further notice to rescind or amend can be lodged on the same issue.
Part 3 - clause 21	Conduct of Business & Meetings - Urgent Business	Clarification of circumstances under which a matter can be included as urgent business.  Introduction that items of Urgent Business need

		<p>to be supported by an officer's report and Notices of Motion cannot be admitted into urgent business.</p> <p>Introduction for majority of Councillors (half plus one) to be present before urgent business can be admitted to the agenda for an Ordinary Council meeting.</p>
Part 3 - clause 22 & 23	Conduct of Business & Meetings - Reports from Officers & Reports from Committees	Clarification of the types of reports that can be considered at a meeting of Council, including the process and procedure for dealing with those reports.
Part 3 - clause 24	Conduct of Business & Meetings - Confidential Reports	Incorporated provisions (not already provided for in the Act) from Council Policy - 4.3 Confidential Information. Policy to be revoked following adoption of local law.
Part 3 - clause 25	Conduct of Business & Meetings - Keeping of Minutes	Clarification on what the minutes of each Council meeting must record.
Part 3 - clause 26	Conduct of Business & Meetings - Confirmation of Minutes	Formerly Part 4 - Minutes.  Streamlined and clarified process for confirmation of minutes.
Part 3 - clause 27	Conduct of Business & Meetings - Digital Recording of Proceedings	Introduction of provisions for digital recording of meetings, including audio, video and live broadcasting.
Formerly Part 4	Formerly Minutes	Removed in part. Provisions still applicable now included in new Part 3 - clause 25 and 26 - Conduct of Business & Meetings - Keeping of Minutes & Confirmation of Minutes.
Part 4	Conduct of Debate & Voting	New Part. Clauses 28 - 52 reviewed and updated to strengthen governance processes and procedures.
Part 4 - clause 33	Conduct of Debate & Voting - Procedures with Respect to Seeking Clarification or Asking Questions of Officers	<p>Inclusion of new provisions that Councillors should make every effort to seek clarification on information in advance of the meeting and where Councillors are seeking clarification by asking questions of officers throughout the meeting, such questions need to be:</p> <ul style="list-style-type: none"> <li>• Directed through the CEO;</li> <li>• Relevant to an item on the agenda;</li> <li>• Seeking genuine clarification of a matter that is not already addressed in the officer's report;</li> <li>• Not objectionable in language, nature or tone;</li> <li>• Not intended to draw officers into debating a matter or justifying a recommendation; and</li> <li>• Not designed to canvass matters or disseminate information to the public.</li> </ul>

Part 4 - clause 34	Conduct of Debate & Voting - Procedure with Respect to Recommendations and Motions	Clarification on the process and the procedure to deal with recommendations and motions.
Part 4 - clause 36	Conduct of Debate & Voting - Procedures with Respect to Amendments	Clarification when a motion can be amended and the procedure to deal with amendments.
Part 4 - clause 37	Conduct of Debate & Voting - Procedures with Respect to Foreshadowed Motions	Clarification on the process for a Councillor to foreshadow a motion and the procedure to deal with foreshadowed motions.
Part 4 - clause 42	Conduct of Debate & Voting - Rules for Voting	Inclusion of provision that a Councillor can abstain from voting however, the decision to do so should not be taken lightly and could be seen as an abrogation of a Councillor's oath of office and responsibility to represent the community.
Part 4 - clause 44	Conduct of Debate & Voting - Recording of Opposition or Support for Motion	Inclusion of provision that a Councillor can request to have their vote for or against the motion adopted by Council recorded in the minutes.
Part 4 - clause 46	Conduct of Debate & Voting - Points of Order	Clarification around points of order and the process and procedure for dealing with points of order.
Part 4 - clause 47	Conduct of Debate & Voting - Disagreement with Chairperson's Ruling	Removal of requirement for Chairperson to vacate chair when dealing with a motion of dissent.  Introduction of additional process steps to define meeting procedures when dealing with a motion of dissent.
Part 4 - clause 48	Conduct of Debate & Voting - Suspension of Standing Orders	Inclusion of provision that the Chairperson can receive a motion to suspend standing orders where Councillors or the Public Gallery need a break or to seek technical advice from a person not listed as an official attendee.  Clarification that suspension is not intended for Councillors to discuss the issue or seek to reach agreement outside a formal debate. Standing orders should be resumed as soon as possible.  Removes previous provision that allows Council to suspend any part of the Local Law by resolution.
Formerly Part 5	Formerly Business of Meetings	Removed in part. Provisions still applicable now included in new Part 3 - Conduct of Business & Meetings and new Part 6 - Committees.
Part 5	Public Participation in Meetings	Renamed part to Public Participation in Meetings. Formerly Public Participation.
Part 5 - clause 53	Public Participation in Meetings - Public Question	Introduction of provisions for public question time. The processes and procedures for public

	Time	<p>question time to be determined in a policy adopted by Council.</p> <p>The draft revised Council Policy 4.4 - Public Participation in Council Meetings (Question Time, Presentations &amp; Submissions, Petitions &amp; Joint Letters) has been prepared.</p> <p>The draft policy includes provision for questions to be submitted with notice in writing by 10am on the day of the meeting.</p>
Part 5 - clause 54	Public Participation in Meetings - Public Presentations	<p>Clarification that public presentations will be allowed at a meeting. The processes and procedures for public presentations to be determined in a policy adopted by Council.</p> <p>The draft revised Council Policy 4.4 - Public Participation in Council Meetings (Question Time, Presentations &amp; Submissions, Petitions &amp; Joint Letters) has been prepared.</p> <p>The draft revised policy includes provision to allow presentations at a Council meeting, where there is requirement to do under legislation or policy.</p> <p>The draft revised policy additionally includes provision to allow written submissions on all matters listed on the agenda.</p>
Part 5 - clause 55	Public Participation in Meetings - Petitions and Joint Letters	<p>Clarification that the processes and procedures for petitions and joint letters to be determined in a policy adopted by Council.</p> <p>The draft revised Council Policy 4.4 - Public Participation in Council Meetings (Question Time, Presentations &amp; Submissions, Petitions &amp; Joint Letters) has been prepared.</p> <p>The draft revised policy introduces requirement for at least five signatures to constitute a petition or joint letter.</p>
Part 5 - clause 56	Public Participation in Meetings - Public Behavior	<p>New requirement for members of the public to sign in before entering the meeting area. This is considered to be a reasonable health and safety measure which will also allow follow-up where needed.</p>
Formerly Part 6	Formerly Voting at Meetings	<p>Removed in part. Provisions still applicable now included in new Part 4 - Conduct of Debate and Voting.</p>
Part 6	Committees	<p>New Part. Clauses 58 - 59 reviewed and added to strengthen governance processes and procedures.</p>
Formerly Part 7	Formerly Addressing the Meeting	<p>Removed in part. Provisions still applicable now</p>

		included in new Part 4 - Conduct of Debate & Voting.
Part 7	Common Seal	New Part. Clause 60 reviewed and updated.  Update of wording to accompany Council's Common Seal to clearly differentiate from other signing clauses. Current wording is inconsistent with Council's delegations and a correction is required. New wording clear that use of the Common Seal is authorised by Council resolution. Mayor or Deputy Mayor to sign in addition to the CEO.  Incorporated other necessary provisions from Council Policy - 4.6 Council Seal - Authority of CEO to use Common Seal. Policy to be revoked following adoption of local law.
Formerly - Part 8	Formerly Other Meeting Procedures	Removed in part. Provisions still applicable now included in new Part 3 - Conduct of Business & Meeting and new Part 4 - Conduct of Debate & Voting.
Part 8	Offences & Penalties	New Part. Formerly Part 10 - Enforcement and Penalties.  Clarification of the right of a person being issued with an infringement notice to defend the prosecution in court.
Part 8 - clause 61	Offences & Penalties - Offences	Introduction of new offence of 'disorderly conduct'. At present it is an offence not to leave if asked by Chair if Chair considers there is disorderly conduct. Currently no penalty for the disorderly conduct itself.
Formerly Part 9	Formerly Common Seal	Removed in part. Provisions still applicable now included in new Part 7 - Common Seal.
Formerly Part 10	Formerly Enforcement and Penalties	Removed in part. Provisions still applicable now included in new Part 8 - Offences & Penalties.
Schedule	Formal Motions Procedure and Effect	New schedule to clarify formal motions, procedure, process and effect.
Formerly Schedule 1	Formerly Schedule 1 - Infringement Notices	Schedule removed. Infringement notice to be issued by the Chief Executive Officer and generally be in a form approved by the Chief Executive Officer. Refer clause 62.1.
Formerly Schedule 2	Formerly Schedule 2 - Penalties	Schedule removed. Provisions and penalties for offences as per new Part 8 - Offences & Penalties.
General	Entire document	Improvements to language throughout.