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# Common Seal and Miscellaneous Penalties Local Law 2020



August 2020

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Northern Grampians Shire Council  
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## **PART 1 - PRELIMINARY**

### **1. Title**

- 1.1 This Local Law is the Northern Grampians Shire Council's *Common Seal and Miscellaneous Penalties Local Law 2020* and referred to below as this Local Law.

### **2. Purpose of this Local Law**

- 2.1 The purpose of this Local Law is to:
- 2.1.1 regulate the use of the common seal;
  - 2.1.2 regulate the types of offences and penalties applicable to Council meetings; and
  - 2.1.3 revoke the Northern Grampians Shire Council's *Meeting Procedure Local Law 2020* made by Council on 3 February 2020.

### **3. The power to make this Local Law**

- 3.1 The Council's power to make this Local Law is contained in Section 14 of the *Local Government Act 2020* and Part 5 and, in particular, section 111(1) of the *Local Government Act 1989*.
- 3.2 The Local Law was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

### **4. Commencement and Revocations**

- 4.1 In this clause, "commencement date" means the first working day following the gazettal of the Local Law in the Victoria Government Gazette.
- 4.2 This Local Law comes into operation on the commencement date and shall apply to, and have operation throughout the municipal district of the Northern Grampians Shire.
- 4.3 On the commencement of this Local Law, the *Northern Grampians Shire Council's Meeting Procedure Local Law No 2020* is revoked and will cease to operate.
- 4.4 This Local Law ends on the 10th anniversary of the commencement date, unless revoked sooner.

### **5. Definitions**

- 5.1 In this Local Law, unless inconsistent with the context:

<i>Chief Executive Officer</i>	<i>means the Chief Executive Officer of Council</i>
<i>common seal</i>	<i>means the common seal of the Council</i>
<i>Council</i>	<i>means the Northern Grampians Shire Council</i>
<i>Councillor</i>	<i>means a person who is an elected member of the Council as defined under the Act</i>
<i>Mayor</i>	<i>means Mayor of the Council</i>
<i>Offence</i>	<i>means an act or default contrary to this Local Law</i>
<i>Penalty units</i>	<i>means penalty units as prescribed in the Sentencing Act 1992</i>
<i>senior officer</i>	<i>means a member of the Executive Leadership Team</i>

## PART 2 - COMMON SEAL

### 6. Unauthorised use of Common Seal

- 6.1 A person must not use the common seal except on the authority of Council or otherwise in accordance with this Local Law.

### 7. Witnessing use of the Common Seal

- 7.1 The *common seal* must be affixed in the physical presence of two witnesses.
- 7.2 Signatures of witnesses to the affixing of the *common seal* cannot be applied digitally.
- 7.3 The affixing of the *common seal* to any document must be attested to by the signatures of both—
- 7.3.1 the *Mayor* and the *Chief Executive Officer* or any other *senior officer*; or
  - 7.3.2 in the absence of the *Mayor* by another *Councillor* and the *Chief Executive Officer* or any other *senior officer*.

### 8. Delegation

- 8.1 Council can authorise the use of the common seal by resolution or delegation.
- 8.2 *Council* delegates to the *Chief Executive Officer* the power to authorise the use of the *common seal* on behalf of *Council* subject to the following—
- 8.2.1 the seal must not be used for matters for which the *Chief Executive Officer* is not delegated power as detailed in the conditions and limitations of the *Instrument of Delegation* from *Council* to the *Chief Executive Officer* as adopted from time to time; and
  - 8.2.2 the *Chief Executive Officer* is first satisfied that any provisions of the *Act* required to be complied with in relation to the subject matter of the document have been complied with.
- 8.3 The *Chief Executive Officer* must not delegate or purport to delegate the function conferred by 7.1.

### 9. Form of Sealing Clause

- 9.1 The common seal cannot be affixed digitally.
- 9.2 Where the common seal is affixed to a document on the authority of the *Council* and/or *Chief Executive Officer* the sealing clause must contain the words to the following effect—

**THE COMMON SEAL** of the Northern )  
Grampians Shire Council was hereunto )  
affixed this day of )  
YYYY in the presence of: )

..... Mayor/Councillor

..... Chief Executive Officer/Senior Officer

### 10. Use of common seal

- 10.1 The common seal can be affixed to routine documents for ceremonial purposes.
- 10.2 The common seal must:
- 10.2.1 bear the name of the Council and any other word, letter, sign or device the Council determines should be included; and
  - 10.2.2 be kept at the Council office.

## **PART 3 - OFFENCES AND PENALTIES**

### **11. Unauthorised use of Common Seal**

11.1 Any person who uses the common seal without authority is guilty of an offence.

*Penalty: 5 penalty units*

### **12. Chairperson may Remove**

12.1 The Chair may order and cause the removal from the gallery of any person, other than a Councillor, who disrupts any Council meeting or fails to comply with a direction.

12.2 The Chair must call to order any person, including a Councillor, who:

12.2.1 is disruptive, or unruly during any meeting; or

12.2.2 who says anything which is defamatory, abusive or objectionable in language or nature, and may direct that person to remain silent and/or to resume their seat.

12.3 Any person, other than a Councillor, who has been called to order and directed by the Chairperson to leave the gallery and who fails to comply with the Chairperson's direction, is guilty of an offence.

*Penalty: 5 penalty units*

12.4 Any person, including a Councillor, who has been called to order and directed by the Chairperson to remain silent and/or to resume his or her seat and who fails to comply with the Chairperson's direction is guilty of an offence.

*Penalty: 5 penalty units*

### **13. Offences**

In addition to any other offences created by this Local Law, it is an offence:

13.1 for any person not to withdraw a remark which is considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature upon being directed by the Chairperson to do so;

*Penalty: 5 penalty units*

13.2 for any person not to apologise when called upon by the Chairperson to do so for a remark which is considered by the Chairperson to be defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature; and

*Penalty: 5 penalty units*

13.3 for any person to fail to obey a direction of the Chair relating to the conduct of the meeting or the maintenance of order.

*Penalty: 5 penalty units.*

13.4 Where any provision in this Local Law requires that something may not be done at all, any person who does that act is guilty of an offence.

13.5 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.

13.6 Any person who contravenes this Local Law is guilty of an offence, and liable to a penalty, unless stated otherwise in this Local Law:-

13.6.1 for an initial offence, not exceeding 10 penalty units;

13.6.2 for a subsequent offence, not exceeding 30 penalty units; and

13.6.3 for a continuing offence, of one penalty unit for each day after conviction for an offence during which the contravention continues.

#### **14. Signing Petitions – Offence**

14.1 Any person who fraudulently signs a petition or joint letter which is presented to the Council is guilty of an offence.

*Penalty: 10 penalty units*

14.2 A speaker who has been required by the Chairperson to be seated and not speak further in respect of the matter then before the Chair must immediately comply with that requirement.

*Penalty: 5 penalty units.*

#### **15. Penalties**

15.1 This Local Law sets out penalties for infringement notice purposes which 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.

#### **16. Infringement Notice**

16.1 The Chief Executive Officer or a member of Victoria Police may serve an infringement notice on a person whom the officer believes has committed an offence against this Local Law.

16.2 The form of an infringement notice shall be in the form as described in section 13 of the *Infringements Act 2006*.

16.3 To avoid prosecution a person to whom an infringement notice has been issued must pay to Council the amount specified in the notice within 28 days.


### **PART 4 - CERTIFICATION**

This Local Law was made by resolution of Northern Grampians Shire Council on 3 August 2020.

Public Notice of the proposal to make and confirmation for the making of this Local Law was inserted in the Weekly Advertiser and North Central News on 1 July 2020 and 12 August, 2020.

Notice of the proposal to make and the making of this Local Law was included in the Victorian Government Gazettes dated 2 July 2020 and 6 August 2020.

A copy of this Local Law was sent to the Minister for Local Government on 7 August 2020.

  
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Mayor/Councillor

  
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Chief Executive Officer/Senior Officer