



WELLINGTON
SHIRE COUNCIL
The Heart of Gippsland

LOCAL LAW NO. 1 - 2020
PROCESSES OF MUNICIPAL GOVERNMENT
(COMMON SEAL AND ENFORCEMENT AND
PENALTIES)

The Resolution for amending this Local Law was passed at a meeting of the
Wellington Shire Council held on 1 September 2020

The Common Seal of WELLINGTON
SHIRE COUNCIL was hereunto affixed
this *1st* day of *SEPTEMBER* 2020
in accordance with Local Law No. 1
in the presence of:

)
)
)
)



.....
Chief Executive Officer

Originally adopted July 2014
Revision adopted 1 September 2020

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

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EXPLANATORY NOTES

Local Law No 1 was adopted by Council in July 2014 and will expire in July 2024.

The introduction of the *Local Government Act 2020* (the Act) requires Governance Rules to replace Local Law No 1 which was made under the *Local Government Act 1989*. The aim of the Act is to provide good governance in the modern day which will allow Council to administer local government in a way that is less prescriptive and more inclusive in its strategies and practices.

Under the Act, it is necessary to remake Local Law 1 whereby the majority of the provisions are transitioned to the Governance Rules and the remaining provisions are those that are not provided for under the Act and thus the Governance Rules. Under the *Local Government Act 1989*, the process to remake a local law is the same as making a new local law (s119), requiring engagement under section 223 for 28 days. This process will commence on the date the notice appears in the Victorian Government Gazette.

PART 1

COMMON SEAL, LOGO & LETTERHEAD

L1.1 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 2

ENFORCEMENT AND PENALTIES

L2.1 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.

L2.2 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.

L2.3 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 (COMMON SEAL AND ENFORCEMENT AND PENALTIES) LOCAL LAW

WELLINGTON SHIRE COUNCIL

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

OFFENCES AGAINST LOCAL LAW NO. 1-2020	PENALTY UNITS
Failure to comply with Chairpersons direction	20
Using Council's Common Seal without authority.....	20

SCHEDULE 2
PROCESS OF MUNICIPAL GOVERNMENT
(COMMON SEAL AND ENFORCEMENT AND PENALTIES) 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* (also reflected in Section 81 of the *Local Government Act 2020*).