



BULOKE SHIRE COUNCIL

Local Law Community Impact Statement

Meetings Procedure and Common Seal Local Law 2018



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Proposed Meetings Procedure and Common Seal Local Law 2018

Council provides the following information to the community in respect of the proposed Local Law.

Part A - General Comments

Buloke Shire Council has determined that the Meetings Procedure and Common Seal Local Law No. 15 should be reviewed prior to the October 2025 expiry date.

The review commenced in March 2018 and has involved Councillors and officers reviewing the processes and practices relating to meeting procedures and use of the Common Seal.

Consequently, a Local Law is proposed that addresses the Meetings Procedures for Council and Special Committees, the use of the Common Seal and Enforcement and Penalties.

The overall objectives of the proposed Local Law are set out in the draft of the Local Law.

The proposed Local Law was presented to the Ordinary Meeting of Council on 14 November 2018, at which Council resolved to commence the statutory process for the making of a local law and endorsed the draft Meetings Procedure and Common Seal Local Law 2018 as the proposed Local Law for public exhibition and submissions under section 223 of the *Local Government Act 1989*. The public exhibition period will commence on 17 March 2019 and close 17 April 2019. During this time, the community is invited to make written submissions as per the requirements of sections 119 and 223 of the *Local Government Act 1989*.

Any person who makes a written submission may ask to be heard by Council in support of their submission or may be represented by a person (who is specified in their submission) to speak on their behalf. The proposed Local Law will be considered at the Ordinary Meeting of Council to be held on 8 May 2019.

Part B – Overview of Proposed Local Law

Measures of success of proposed Local Law	Council will measure the success of the Local Law as follows: <ul style="list-style-type: none">• Council meetings made at meetings closed the public• Councillor attendance at Council meetings
Existing legislation that might be used instead	Not applicable. There is no existing legislation that could be used instead of the proposed Local Law
State legislation more appropriate	Not applicable. The <i>Local Government Act 1989</i> requires Council to make local laws governing the conduct of meetings of the Council and special committees
Overlap of existing legislation	Not applicable. It is not considered that the proposed Local Law overlaps existing legislation, rather it operates in conjunction with the requirements of the <i>Local Government Act 1989</i>
Overlap of planning scheme	Not applicable
Risk assessment	Council does not believe there are any risks associated with the proposed Local Law
Legislative approach adopted	<p>The Local Law incorporating by reference a meetings procedure is necessitated by the provisions of the Act.</p> <p>In relation to the conduct of meetings, the Local Law adopts a medium impact regulatory approach. Whilst being largely prescriptive, the Local Law retains a level of discretion which is considered appropriate to conduct the orderly conduct of meetings.</p> <p>In relation to the election of the Mayor, the Local Law adopts a high impact regulatory approach that is highly prescriptive with no discretionary process. This is considered appropriate as it provides certainty and transparency to candidates and the community and ensures elections are conducted in a fair and equitable manner.</p> <p>In relation to the use of the Common Seal, the Local Law adopts a high impact regulatory approach that is considered appropriate as it provides clear accountability for appropriate use and safekeeping of the Council Seal.</p>
Restriction of competition	Not applicable
Penalties	Penalties for particular breaches of the provisions of the Local Law have all been reviewed, however no changes were considered appropriate. These penalties are contained in Schedule 1 of the Local Law

PermitsNot applicable

FeesNot applicable

Performance standards or prescriptiveDrafting of the Local Law has adopted a prescriptive approach

Comparison with neighbouring and like CouncilsIn drafting the Local Law, comparisons were made with neighbouring and similar sized Victorian councils

Charter of Human Rights

The *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter) applies to all subordinate legislation (Local Laws).

Under section 8.2 of the Act:

A local law must not –

(j) be inconsistent with principles of justice and fairness

Having reviewed the Local Law as a whole, Council is satisfied the proposed Local Law will be consistent with the Charter

Consultation meetings

Council has undertaken consultation meetings with Special Committees as part of the review of the proposed Local Law.

No adjustments were suggested by the Special Committees as part of this consultation process

Submissions

The public exhibition period will commence on 17 March 2019 and close 17 April 2019. During this time, the community is invited to make written submissions as per the requirements of sections 119 and 223 of the Local Government Act 1989.

Any person who makes a written submission may ask to be heard by Council in support of their submission or may be represented by a person (who is specified in their submission) to speak on their behalf. The proposed Local Law will be considered at the Ordinary Meeting of Council to be held on 8 May 2019

Part C – Comments on Specific Parts or Provisions of the Proposed Local Law

Clause, section or part of the proposed Local Law and description/heading	The problem the provision is intended to address	Outcome
Part 1 – Preliminary		
Clause 2(8)	Ensuring status of the Local Law is clear and transparent	Clause 2(28) formally repeals Local Law No. 15 of 14 October 2015 (Meeting Procedures and Common Seal Local Law No. 15)
Clause 7	Several definitions have been updated to reference current legislative requirements Several definitions are duplicated within the Local Law	Definitions amended for regulations Duplicate definitions removed for ‘penalty unit’ and ‘present at the meeting’
Part 2 – Election of the Mayor		
Clause 20	References to incorrect sections of the <i>Local Government Act 1989</i> , including sections which have been repealed	References to sections of the <i>Local Government Act 1989</i> amended
Part 3 – Meetings Procedure		
Clause 24(4)(b)	Advances in technology provide for additional delivery methods not identified within the Local Law	The Local Law also provides for agendas to be delivered to Councillors through centralised Councillor information system
Clause 42(2)	Local Law does not provide for Councillors to abstain from voting	Local Law provides that Councillors may abstain from voting, and their reason for any abstained vote
Clause 43	There are no circumstances within which recommendations contained in the Minutes would require Council’s approval	Removal of 43(2) and 43(3)

Clause 50(2), (3)	Local Law does not provide for Councillors to abstain from voting	Clauses updated to provide for process when a Councillor abstains from voting
Clause 57(15)	Council's current practice is to have Council Officers to introduce reports relevant to their directorate	The Local Law has been adjusted to reflect this practice
Clause 59(1)	The Local Law does not specify restrictions on right of reply	The mover of an original motion must not introduce any new material in reply to matters raised in debate
Laying the Question on the Table	Unnecessary when a provision exists to adjourn the debate	Remove clause titled "Laying the Question on the Table"
Proceeding to the Next Business	Unnecessary when a provision exists to adjourn the debate	Remove clause titled "Proceeding to the Next Business"
The Previous Question	Unnecessary when a provision exists to adjourn the debate	Remove clause titled "The Previous Question"
Clause 110	In the event of members asking questions, discretion is given to the Chairperson on time allocated to each person	Provision amended to clarify Chairperson's discretion
Clause 112	Limits ability for Council to prepare response to questions received by the public	Provision amended to require questions to be submitted to the Chief Executive Officer by 1pm on the day of the Ordinary meeting
Clause 113	A meeting can only be closed under section 89(2) of the Act	Amend wording to clause removing ability of Council to resolve to close the meeting to members of the public for any matter outside of section 89(2)
Clause 115	Only a member of the Victoria Police Force should remove any person who fails to comply with or disrupts a Council meeting. Staff should not be involved in removing a person in view of occupational health and safety risks	Amended provision providing Victoria Police Force may remove persons from a Council meeting