

**HINDMARSH MEETING PROCEDURE
AND COMMON SEAL
LOCAL LAW**



Adopted on 23 June 2014

Law No 1 of 2014

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Hindmarsh Shire Council

HINDMARSH MEETING PROCEDURE AND COMMON SEAL LOCAL LAW

PART 1 - PRELIMINARY

1. Title

This Local Law is the Meeting Procedure and Common Seal Local Law of 2014 and is referred to below as this Local Law.

2. Objectives of this Local Law

The objectives of this Local Law are to:

- (a) provide a mechanism to facilitate the good government of the Council through its formal meeting procedure to ensure effective and efficient Council decisions are made in a manner which acknowledges the role of local government within the Australian system of Government;
- (b) to promote and encourage community participation in the system of local government by providing mechanisms for the Council to ascertain the community's views and expectations;
- (c) to regulate and control the election of Mayor, any Deputy Mayor and the chairperson of any Special Committees;
- (d) to regulate and control the procedures governing the conduct of meetings including:
 - (i) the notice required for meetings; and
 - (ii) the keeping of minutes;
- (e) to regulate and control the use of the Council's common seal;
- (f) to provide for the administration of the Council's powers and functions; and
- (g) to provide generally for the peace, order and good government of the municipal district.

LGA5
LGA91
LGA111

3. The Power to make this Local Law

The Council's power to make this Local Law is contained in sections 5, 91 and 111 of the *Local Government Act 1989* (Vic).

4. Commencement and Revocation

This Local Law comes into operation on 4 July 2014.

Unless sooner revoked this Local Law ceases to operate on the date 10 years following its making pursuant to section 122(1) of the *Local Government Act 1989* (Vic).

5. Definitions

In this Local Law,

- (a) Marginal notations such as LGA71 refer to the sections of the Local Government Act 1989 which have relevance to the clause;
- (b) Expressions used have the same meaning as in the Local Government Act 1989 unless the contrary intention appears. Expressions used which have the same meaning as defined in section 3 of the Act include: Chief Executive Officer, municipal district and senior officer; and
- (c) unless inconsistent with the context:

Act	Means the Local Government Act 1989.
Authorised Officer	Means an Authorised Officer appointed under section 224(1) of the Act.
Chair	Refers to the Chairperson.
Chairperson	Means the person who chairs a meeting of the Council or Special Committee of the Council.
Council	Means Hindmarsh Shire Council.
Councillor	Means a person who is an elected member of the Council.
Council meeting	Includes Ordinary and Special meetings of the Council.
Deputy Mayor	Means a Councillor appointed as Deputy to the Mayor.
Division	Means a formal count of those for and those against a motion, generally called to remove any doubt as to whether the motion is supported or opposed.
Formal motion	Means a motion which relates to a procedural matter only and which is not designed to produce any substantive result but used merely as a formal procedural measure.
Mayor	Also known as the Chairperson, means a Councillor appointed as Mayor.

Member	Refers to a person who is entitled to vote at a meeting of the Council or a Special Committee of the Council.
Minister	Means the Minister responsible for administering the Act.
Penalty Unit	Means the amount of a fine payable for an offence, determined by the Office of the Chief Parliamentary Counsel of the State Government of Victoria.
Quorum	Means the minimum number of members of the Council or of a Special Committee of the Council required by this Local Law to be present in order to constitute a valid meeting of the Council or the Special Committee respectively.
Replica	In relation to the common seal of the Council means any representation which purports to be, looks like or is capable of being mistaken for the common seal whether fixed to or printed on a document or advertisement or sign and includes any use of a symbol resembling the common seal which is capable of misleading a person into believing it is used with the authority of the Council.
Suspension of standing orders	Means the suspension of the provisions of this Local Law to facilitate full discussion on an issue without formal constraints.

**PART 2 - ELECTION OF MAYOR, ANY
DEPUTY MAYOR AND OTHER CHAIRPERSONS**

LGA71

6. Election of Mayor and Chairs

- (1) The meeting to fill the vacancy of Mayor will be held in accordance with section 71 of the Act:
 - (a) as soon as practicable after the declaration of the result of the general election; or
 - (b) where the position of Mayor becomes vacant other than as the result of a general election being held, as soon as practicable after the vacancy has occurred.
- (2) At any meeting to elect the Mayor, any Councillor may be elected as a temporary chair to deal with:
 - (a) the receipt of nominations for the election of Mayor; and
 - (b) the election of the Mayor.
- (3) The election of the Mayor will be carried out by show of hands.
- (4) In determining the election of the Mayor, the following will apply:
 - (a) where only one nomination is received, that Councillor must be declared elected;
 - (b) where two nominations are received, the Councillor with the majority of votes cast will be declared elected;
 - (c) where there are two or more nominations and all votes cast are equally divided between two or more nominees, the election must be determined by lot;
 - (d) where there are two or more nominations received and the result has not been determined under paragraphs (b) and (c), the nominee with the fewest number of votes cast must be eliminated (and if more than one of them, the nominee determined by lot) and the names of the remaining nominees must be put to the vote again; and
 - (e) the procedure in paragraph (d) must be repeated until the circumstances in paragraph (c) apply or until there are only two nominees remaining in which case a further vote must be taken and the nominee with a majority will be declared elected or, if there is an equal division of votes, the election must be determined by lot.

- (5) If it is necessary to determine an election by lot, the Chief Executive Officer must place the names of the remaining candidates in a container and the candidate whose name is drawn first by the Chief Executive Officer will be declared elected as Mayor.
- (6) If the Mayor is unable to attend a Council meeting for any reason:
 - (a) any Deputy Mayor will be acting Chair; and
 - (b) if no Deputy Mayor has been elected, Council may appoint a Councillor as acting Chair.
- (7) Any election of a Deputy Mayor or acting Chair of a Council meeting or a Chair of a special committee will follow the same procedure as that for an election of the Mayor.

Note: Given the provisions of section 90(1)(d) and 90(2) of the Act, it is assumed that “an equality of votes” can only take place when all votes cast are evenly distributed between two or more nominees. This would not be so where, for example, there were four votes for one nominee, four votes for another and one for another (in which case resort would then be had to the paragraph (d) process). If, alternatively, the distribution were to be three votes for each of the three nominees, paragraph (c) and section 90(2) would require determination by lot (regardless of the fact that no nominee had a majority votes).

PART 3 - COUNCIL MEETINGS

Division 1 - Notices and Agendas

LGA83
LGA89

7. Dates and Times of Ordinary Meetings

The date, time and place of all ordinary meetings of the Council are to be fixed by the Council from time to time and seven (7) days' notice of such meetings must be provided to the public.

8. Council may alter meeting dates

LGA89

The Council may change the date, time and place of any ordinary meeting of the Council which has been fixed and must provide reasonable notice of the changes to the public.

9. Special meetings

LGA84

- (1) The notice necessary to call a special meeting in accordance with the Act must be delivered to the Chief Executive Officer in sufficient time to enable reasonable notice to be given to Councillors.
- (2) In giving such notice, Councillors should have regard to any need for preparatory investigations to enable the business to be undertaken.

10. Notice of meeting

LGA84
LGA89

- (1) A notice of meeting incorporating or accompanied by an agenda of the business to be dealt with must be served on every Councillor:
 - (a) for an ordinary meeting, at least 48 hours before the meeting;
 - (b) for a special meeting, within a reasonable time before the meeting; and
 - (c) for a Special Committee meeting, within a reasonable time before the meeting.
- (2) The notice of agenda for any meeting must state the date, time and place of the meeting and the business to be dealt with and must be sent by post or facsimile or by electronic means or be otherwise delivered to each Councillor's place of residence or usual place of business (if applicable) or as otherwise specified by the Councillor.

LGA66B

11. Leave of Absence

It will be unnecessary for a notice of meeting or agenda to be served on any Councillor who has been granted leave of absence, unless the Councillor has requested the Chief Executive Officer in writing to continue to give notice of any meeting to be held during the period of his or her absence.

12. Postponement of Meetings for Emergency

- (1) In the case of an emergency, the Chief Executive Officer or, in his or her absence, a senior officer, may postpone a meeting of the Council, without the necessity to comply with clauses 7 - 10 (inclusive) provided reasonable attempts are made to notify every Councillor.
- (2) The Chief Executive Officer or senior officer must submit a full written report of the circumstances requiring his or her action to the next ordinary meeting of the Council.

Division 2 - Quorums

13. Council Meetings

The quorum required for every Council meeting will be a majority of the Councillors capable of being elected to the Council.

LGA86
LGA87

14. Special Committee Meetings

The quorum for a Special Committee Meeting or an Advisory Committee Meeting will be determined by the Council for each Special Committee or Advisory Committee, but in the absence of the Council's determination the quorum required will be a majority of the members for the time being elected or appointed to that Special Committee or Advisory Committee.

15. Inability to Gain a Quorum

If a quorum cannot be obtained within thirty (30) minutes of the scheduled starting time of any meeting those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or in his or her absence, a senior officer, may adjourn the meeting for a period not exceeding seven (7) days from the date of the adjournment.

16. Inability to Maintain a Quorum

If, during any meeting, a quorum cannot be achieved and maintained, those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or in his or her absence, a senior officer, may adjourn the meeting for a period not exceeding seven (7) days from the date of the adjournment.

17. Inability to Achieve or Maintain a Quorum due to Conflicts of Interests of Councillors

If, during any meeting or adjournment, a quorum cannot be achieved or maintained due to the number of disclosures of conflicts of interest by Councillors, the Chief Executive Officer, or in his or her absence, a senior officer, may adjourn the meeting for a length of time sufficient to enable an exemption for the affected Councillors to be obtained from the Minister.

18. Notice for Adjourned Meeting

The Chief Executive Officer may provide written notice of an adjourned meeting but where that is not practicable because time does not permit that to occur then, provided a reasonable attempt is made to contact each member, notice by telephone or facsimile, in person or by electronic means will be sufficient.

PART 4 - MINUTES

LGA93

19. Keeping of Minutes

The Chief Executive Officer is responsible for arranging the keeping of minutes on behalf of the Council.

20. No Debate on Confirmation of Minutes

No discussion or debate on the confirmation of minutes will be permitted except where their accuracy as a record of the proceedings of the meeting to which they relate is questioned.

21. Objection to Confirmation of Minutes

If a Councillor is dissatisfied with the accuracy of the minutes, then he or she must:

- (d) state the item or items with which he or she is dissatisfied; and
- (e) propose a motion clearly outlining the alternative wording to amend the minutes.

22. Deferral of Confirmation of Minutes

The Council may defer the confirmation of minutes until later in the meeting or until the next meeting as appropriate.

23. Contents of Minutes

- (1) In keeping the minutes of any meeting, the Chief Executive Officer must arrange the recording of minutes so as to show:
 - (a) the names of Councillors and whether they were PRESENT, an APOLOGY, or on LEAVE OF ABSENCE;
 - (b) the names of members of Council staff IN ATTENDANCE with their organisational title;
 - (c) the name of any other person IN ATTENDANCE at the meeting and the organisation they represented or the capacity in which they attended;
 - (d) the arrival and departure times of Councillors, members of Council staff and other attendants during the course of the meeting (including any temporary departures or arrivals);
 - (e) every motion and amendment moved, including the mover (and seconder) of any motion or amendment;

- (f) the outcome of every motion, that is, whether it was put to the vote and the result of either CARRIED, LOST, WITHDRAWN, LAPSED, AMENDED etc. and identification of those motions voted on by secret ballot;
- (g) procedural motions (which might be highlighted);
- (h) where a valid division was called, a table of the names of every Councillor and the way their vote was cast; either FOR or AGAINST;
- (i) when requested by a Councillor, a record of that Councillor's support or opposition for any motion;
- (j) details of a failure to achieve or maintain a quorum and any adjournment;
- (k) details of any question directed or taken upon notice;
- (l) details of any deputations made to the Council;
- (m) the time and reason for any adjournment of the meeting or suspension of standing orders;
- (n) any interests or conflicts of interest disclosed at the meeting, including the nature of any such interests or conflicts of interest which were disclosed by Councillors in accordance with section 79 of the Act or by any member of council staff in accordance with section 80B of the Act; and
- (o) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or the reading of the minutes.

(2) In addition, the minutes should:

- (a) bear the date and time the meeting was commenced, adjourned, resumed and concluded;
- (b) be consecutively page numbered; and
- (c) contain consecutive item numbers which are clearly headed with a subject titles and, where appropriate, sub-titles and file references.

PART 5 - BUSINESS OF MEETINGS

24. The Order of Business

- (1) The order of business appearing on an agenda will be determined by the Chief Executive Officer to facilitate and maintain open, efficient and effective processes of government.
- (2) Although the order of business appearing on agendas should be consistent from meeting to meeting, the order of business can be altered according to the discretion of the Chief Executive Officer to enhance the fluent and open process of government of the Council, to meet identified needs of the Council or to take advantage of opportunities which may arise from time to time.

25. Change to Order of Business

Once an agenda has been sent to Councillors, the order of business for that meeting may only be altered by resolution of the Council.

26. Chief Executive Officer May Include Items on an Agenda

The Chief Executive Officer may include any matter on an agenda which he or she thinks should be considered by the meeting.

PART 6 - VOTING AT MEETINGS

27. How Determined

Subject to clause 44, in determining a question before a meeting, the Chairperson will first call for those in favour of the motion and then those opposed to the motion and will declare the result to the meeting.

28. By Show of Hands

LGA90

Unless the Council resolves otherwise, voting on any matter will be by show of hands.

29. By Secret Ballot

LGA90

The Council may resolve to deal with any matter by secret ballot unless the matter is required to be open to the public and the Act prohibits voting by secret ballot.

30. System of Voting by Secret Ballot

LGA90

If the Council resolves to deal with any matter by secret ballot, the Chief Executive Officer must establish and cause to be administered a system for voting by secret ballot to ensure that the privacy of the vote is maintained.

31. When a Division Permitted

(1) Subject to clause 34, a division may be requested by any Councillor on any matter.

(2) The request must be made to the Chairperson either immediately prior to or immediately after the vote has been taken but cannot be requested after the next item of business has commenced.

32. Procedure for a Division

Once a division has been requested in circumstances other than those dealt with in clause 34, the Chairperson will call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion.

The Chairperson shall name those Councillors voting for the motion and those Councillors voting against the motion and the names shall be recorded in the Minutes of the Meeting.

33. Change Between the Original Vote and the Division

No Councillor is prevented from changing his or her original vote at the voting on the division, and the voting by division will determine the Council's resolution on the issue.

34. Division Not Allowable if Voting by Secret Ballot

If the question on any matter is determined by secret ballot, a request to the Chairperson for a division must not be accepted.

35. No Discussion Once Declared

Once a vote on a motion has been taken, no further discussion relating to the motion will be allowed unless the discussion involves:

- (a) a Councillor requesting that his or her opposition to the motion be recorded in the minutes or a register maintained for that purpose; or
- (b) a subsequent notice of motion following a rescission motion.
- (c) for a Councillor to call for a division.

36. Application To All Meetings

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LGA87

The provisions of clauses 27 - 35 (inclusive) apply to meetings of Special Committees to the extent that they are relevant to the proceedings of any Special Committee and any reference to Councillor in those clauses extends to any member of a Special Committee.

PART 7- ADDRESSING THE MEETING

37. Addressing the Meeting

- (1) Except for the Chairperson, any Councillor or person who addresses the meeting must stand and direct all remarks through the Chair, however, the Chairperson may permit at their discretion any Councillor or other person to remain seated while addressing the Chair.
- (2) Any person addressing the Chair should refer to the Chairperson as:
 - (a) Madam Mayor/President;
 - (b) Mr. Mayor/President;
 - (c) Madam Chairperson; or
 - (d) Mr. Chairperson;as the case may be.
- (3) All Councillors, other than the Mayor, should be addressed as Cr.....(Name).
- (4) All members of Council staff, should be addressed as Mrs., Ms., Miss or Mr.....(Name).

38. Suspension of Standing Orders

- (1) Subject to clause 39, the provisions of this Local Law may be suspended for a particular purpose by resolution of the Council.
- (2) The suspension of such provisions (suspension of standing orders) should be used to enable full discussion of any issue without the constraints of formal meeting procedure.
- (3) The purpose of suspending standing orders is to enable the formalities of meeting procedure to be temporarily disposed of while an issue is discussed.
- (4) The suspension of standing orders should not be used purely to dispense with the processes and protocol of the government of the Council.
- (5) Once the discussion has taken place and before any motions can be put, the resumption of standing orders will be necessary.

39. No Motions May Be Accepted During Suspension of Standing Orders

No motion may be accepted by the Chair or be lawfully dealt with during any suspension of standing orders.

40. Interruption for Point of Order

A Councillor who is addressing the meeting must not be interrupted unless called to order. In that event, he or she must sit down and remain silent until the Councillor raising the point of order has been heard and the point of order disposed of.

PART 8 OTHER MEETING PROCEDURES

Division 1 - Matters Not Provided For

41. Matters Not Provided For

Where a situation has not been provided for under this Local Law, the Council may determine the matter by resolution.

Division 2 - Motions

42. Chairperson's Duty

Any motion or amendment which:

- (a) is defamatory;
- (b) is objectionable in language or nature;
- (c) is outside the powers of the Council;
- (d) is not relevant to the item of business on the agenda and has not been admitted as urgent business; or
- (e) purports to be an amendment but is not -

must not be accepted by the Chairperson.

43. Moving a Motion

The procedure for any motion is:

- (a) the mover must state the motion without speaking to it;
- (b) if a motion is not seconded and it is not a formal motion, the motion will lapse for want of a seconder;
- (c) if the motion is seconded, the Chairperson must ask "is the motion opposed":
- (d) If no Councillor indicates opposition, then the Chairperson must ask
 - (i) the mover to address Council on the motion;
 - (ii) the seconder to address Council on the motion if additional points are to be made.
- (e) If a Councillor indicates opposition, then the Chairperson must ask
 - (i) the mover to address Council on the motion; and
 - (ii) any Councillor opposed to debate the motion; and
 - (iii) any other Councillors for and against the motion to debate in turn.

- (f) Except for the purposes of proposing an amendment or for the purposes of raising a point of order no Councillor may speak more than once on any motion.
- (g) A Councillor may, with leave of the Chairperson, ask a question for the purposes of clarification. In asking such questions Councillors must not offer opinions on the issue to be considered. Asking a question for the purposes of clarification will not be deemed as speaking to the motion.
- (h) All addresses under (d) and (f) must be made in accordance with clause 58.

44. Agreed Alteration to a Motion

- (1) With the leave of the Chairperson both the mover and the seconder of the motion may agree to an alteration proposed by another Councillor.
- (2) For the purposes of this Local Law, any such alteration shall not be regarded as an amendment to the motion.

45. Right of Reply

- (1) The mover of an original motion which has not been amended may, once debate has been exhausted, have a right of reply to matters raised during debate.
- (2) After the right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate.

46. No Right of Reply for Amendments

No right of reply is available where an amendment is before the Council.

47. Moving an Amendment

A motion having been moved and seconded may be amended by leaving out, inserting or adding words which must be relevant to the original motion and framed so as to complement it as an intelligible and consistent whole.

48. Who May Propose an Amendment

An amendment may be proposed or seconded by any Councillor, other than the mover or seconder of the original motion.

49. Who May Debate an Amendment

A Councillor may address the meeting once on any amendment (whether or not he or she has spoken to the original motion) but debate must be confined to the terms of the amendment.

50. How Many Amendments May Be Proposed

Any number of amendments may be proposed to a motion but only one amendment may be accepted by the Chair at any one time. No second or subsequent amendment, whether to the original motion or an amendment of it, can be taken into consideration until the previous amendment has been dealt with.

51. An Amendment Once Carried

If the amended motion is carried, it then becomes the question before the Chair.

52. Foreshadowing Motions

- (1) At any time during debate a Councillor may foreshadow a motion to inform the Council of his or her intention to move a motion at a later stage in the meeting, but this does not extend any special right to the foreshadowed motion.
- (2) A motion foreshadowed may be prefaced with a statement that, in the event that a particular motion before the Chair is resolved in a certain way, a Councillor intends to move an alternative or additional motion.
- (3) A motion foreshadowed has no procedural standing and is merely a means to assist the flow of the meeting.
- (4) The Chief Executive Officer is not required to have foreshadowed motions recorded in the minutes until the foreshadowed motion is formally moved, but may do if it is thought appropriate.

53. Withdrawal of Motions

Before any motion is put to the vote, it may be withdrawn with leave of the Council.

54. Separation of Motions

Where a motion contains more than one part, a Councillor may request the Chairperson to put the motion to the vote in separate parts.

55. Chairperson May Separate Motions

The Chairperson may decide to put any motion to the vote in separate parts.

56. Motions in Writing

- (1) The Chairperson may require any motion to be submitted in writing where it is lengthy or unclear or for any other reason.
- (2) The Chairperson may suspend the meeting while the motion is being written or may request the Council to defer the matter until the motion has been written, allowing the meeting to proceed uninterrupted.

57. Debate Must Be Relevant to the Motion

- (1) Debate must always be relevant to the question before the Chair, and if not, the Chairperson may request the speaker to confine debate to the subject motion.
- (2) If, after being requested to confine debate to the motion before the Chair, the speaker continues to debate irrelevant matters, the Chairperson may require the speaker to be seated and not speak further in respect of the matter then before the Chair. In that event, the speaker must comply with the Chairperson's requirement.

58. Speaking Times

Unless a motion for an extension of time has been carried, the maximum speaking times will be:

- (a) the mover of a motion – three (3) minutes;
- (b) the mover of a motion when exercising their right of reply - three (3) minutes;
- (c) any other Councillor for or against the motion - three (3) minutes;

Division 3 - Extension of Speaking Time

59. By Resolution of the Council

An extension of speaking time may be granted by resolution of the Council but only one extension is permitted for each speaker on any question.

The length of the extension must not exceed three (3) minutes.

60. When an Extension Can Be Proposed

A motion for an extension of speaking time must be proposed:

- (a) immediately before the speaker commences debate;
- (b) during the speaker's debate; or
- (c) immediately after the speaker has concluded debate.

61. No Extension After Next Speaker Commenced

A motion for an extension of speaking time cannot be accepted by the Chair if another speaker has commenced his or her contribution to the debate.

Division 4 - Points of Order

62. Chairperson to Decide

The Chairperson will decide all points of order by stating the provision, rule, practice or precedent which he or she considers applicable to the point raised without entering into any discussion or comment.

63. Chairperson May Adjourn to Consider

- (1) The Chairperson may adjourn the meeting to consider a point of order but must otherwise rule on it as soon as it is raised.
- (2) All other matters before the Council are to be suspended until the point of order is decided.

64. Final Ruling on a Point of Order

- (1) The decision of the Chairperson in respect to a point of order raised will not be open for discussion and will be final and conclusive unless a majority of Councillors present moves a motion of dissent.
- (2) A motion of dissent on a point of order must contain the provision, rule, practice or precedent in substitution for the Chairperson's ruling.
- (3) A motion of dissent in relation to a point of order is not a motion of dissent in the Chair and the Chairperson must at all times remain in the Chair and maintain his or her rights as the Chairperson.
- (4) A motion of dissent on a point of order will take precedence over all other business and, if carried, must be acted on instead of the ruling given by the Chairperson.

65. Procedure for Point of Order

A Councillor raising a point of order must:

- (a) state the point of order; and
- (b) the clause, paragraph or provision upon which the point of order is based.

66. Valid Points of Order

A point of order may be raised in relation to:

- (a) a procedural matter;
- (b) a Councillor who is or appears to be out of order; or

- (c) any act of disorder.

67. Contradiction of Opinion

Rising to express a mere difference of opinion or to contradict a speaker will not be treated as a point of order.

68. Adjournment and Resumption of Meeting

- (1) The Chairperson or the Council may adjourn any meeting until a time and place to be determined at the time of the adjournment.
- (2) For the purpose of stating the time to which the meeting is adjourned, that time may be indicated as at the adjournment or conclusion of another meeting or event.

69. Formal Motions

Notwithstanding anything else contained in this Local Law:

- (a) unless otherwise prohibited, a formal motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (b) formal motions are not required to be seconded.
- (c) the mover of a formal motion must not have moved, seconded or spoken to the question before the Chair or any amendment of it.
- (d) a formal motion cannot be moved by the Chairperson.
- (e) unless otherwise provided, debate on a formal motion is not permitted and the mover does not have a right of reply.
- (f) unless otherwise provided, a formal motion cannot be amended.

70. Laying the Question on the Table

- (1) A motion may be moved "that the item (question, letter, document, report) lay on the table".
- (2) The motion in sub-clause (1):
 - (a) is a formal motion which may be debated and, if carried, has the effect of adjourning any further debate on the matter currently before the Council until such time (if any) as the Council resolves to take the question from the table;
 - (b) if carried in respect to an amendment, has the effect that both the original motion and the amendment are adjourned; and

- (c) prevents debate on the matter currently before the Council from proceeding until a motion to take the question from the table is passed.

71. Proceeding to the Next Business

- (1) A motion may be moved “That the meeting proceed to the next business”.
- (2) The motion in sub-clause (1):
 - (a) is a formal motion which cannot be moved during the election of Chairperson;
 - (b) if carried in respect to an original motion, requires the Chairperson to direct the meeting to the next item of business;
 - (c) if carried in respect to a formal motion, disposes of the formal motion immediately and permits debate upon the original motion to proceed; and
 - (d) if carried in respect to an amendment, disposes of the amendment immediately and permits debate upon the original motion to proceed but no similar amendment may be moved at that meeting or any adjournment of it.

72. The Closure

- (1) A motion may be moved "That the motion be now put"-
- (2) The motion in sub-clause 1:
 - (a) is a formal motion which, if carried in respect to an original motion, requires that the original motion must be put to the vote immediately without any further debate, discussion or amendment;
 - (b) if carried in respect to an amendment, requires that the amendment be put to the vote immediately without any further debate or discussion and allows debate on the original motion to continue; and
 - (c) if lost, allows debate to continue unaffected.
- (3) The Chairperson has a discretion to reject such a motion if the original motion has not, in his or her opinion, been sufficiently debated.
- (4) Sufficient debate arises when those possessing different views have been given an opportunity to state them.

73. Adjourning the Debate

- (1) A motion may be moved “That the motion and amendments now before the meeting be adjourned until

(2) The motion in sub-clause (1):

- (a) is a formal motion which cannot be moved while any person is speaking or during the election of a Chairperson;
- (b) may be debated but may only be amended in relation to the time, date and place of the proposed adjournment; and
- (c) should provide a date or time to which the adjournment is sought (but if no date or time is included, it may be relisted at the discretion of the Chief Executive Officer or upon a subsequent resolution of the Council).

Division 5 - Notice of Motion

74. Must be Listed on Agenda

A notice of motion cannot be accepted by the Chairperson unless it has been listed on the agenda for the meeting at which it is proposed to be moved.

75. Procedure

A Councillor may give notice of motion on any matter by delivering a notice of motion outlining the subject and the motion proposed for discussion to the Chief Executive Officer.

76. Rejection of a Vague Notice

The Chief Executive Officer:

- (a) may reject any notice of motion that is too vague, but before rejecting it must give the Councillor delivering the notice an opportunity to amend it; and
- (b) must notify the relevant Councillor of any notice of motion which has been rejected and give the reasons for its rejection.

77. Listing Notice on Agenda

Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the notice of motion and, if more than one, in the order they were received, on the next appropriate meeting agenda.

78. Register of Notices

The Chief Executive Officer must cause every notice of motion received to be sequentially numbered and maintained in a register.

79. May be Moved by any Councillor and Amended

A notice of motion listed on an agenda may be moved by any Councillor present and, except where the notice of motion is to confirm a previous resolution of the Council, may be amended.

80. Confirmation of Previous Resolution

If a notice of motion to confirm a previous resolution of the Council cannot be carried in its original form, it is lost.

81. If Lost

Unless the Council resolves to relist at a future meeting a notice of motion which has been lost, a similar motion must not be put before the Council for at least three (3) months from the date it was last lost.

Division 6 - Notice of Amendment or Rescission

82. Procedure

- (1) A Councillor may propose a motion to amend or rescind a decision of the Council provided:
 - (a) the previous motion has not been acted upon; and
 - (b) a notice is delivered to the Chief Executive Officer outlining:
 - (i) the decision proposed to be amended or rescinded; and
 - (ii) the meeting and date when the decision was made.
- (2) A decision will be acted upon once its details have been formally communicated to persons affected by or reliant on the resolution or where a statutory procedure has been carried out as a result of that decision.

83. Listing Notice on Agenda

Unless the notice specifies a particular meeting date, the Chief Executive Officer must list the notice of amendment or rescission, and if more than one, in the order they were received, on the next appropriate meeting agenda, together with a brief report outlining the criteria required for the motion to be amended or rescinded.

84. Criteria to Amend or Rescind a Motion

For a decision of the Council to be amended or rescinded, the motion for amendment or rescission must be carried by a majority of the votes cast.

85. If Lost

Unless the Council resolves to relist at a future meeting a notice to amend or rescind which has been lost, a similar motion must not be put before the Council for at least three (3) months from the date it was last considered.

86. If Not Moved

If a notice of amendment or rescission is not moved at the meeting for which it is listed, it will lapse.

87. May be Moved by any Councillor

A notice of amendment or rescission listed on an agenda may be moved by any Councillor present but cannot be amended.

88. When Not Required

A notice of amendment or rescission is not required where the Council wishes to change a previous decision relating to a policy of the Council.

89. Register of Notices

The Chief Executive Officer must cause every notice of amendment or rescission received to be sequentially numbered and to be maintained in a register.

90. Urgent and Other Business

Business which has not been listed on the agenda may only be raised as urgent or other business by resolution of the Council.

Division 7 - Public Participation

91. During Meetings

- (1) At every ordinary meeting, time may be allocated to enable any member of the community to address the Council.
- (2) Sub-clause (1) does not apply during any period when the Council has resolved to close the meeting in respect of a matter under section 89(2) of the Act.
- (3) The Chairperson may allocate reasonable time to each person who wishes to address the Council having regard to:
 - (a) the nature of the matter to be discussed;
 - (b) priorities in relation to other Council business;
 - (c) other members of the community present who also wish to address the Council; and

- (d) whether such an opportunity has already been provided to the person.
- (4) The Council may decide to defer discussion to a later date and the views of the person addressing the Council should be sought concerning that other date.

92. Meetings

Any member of the public or community addressing the Council must extend due courtesy and respect to the Council and the processes under which it operates and must take direction from the Chairperson whenever called upon to do so.

93. Chairperson May Remove

- (1) Any person (including a Councillor) who has been called to order by the Chairperson and who then fails to comply with the Chairperson's direction will be guilty of an offence.

Penalty: One (1) Penalty Unit

- (2) The Chairperson has a discretion to cause the removal from the meeting of any person (including a Councillor) who disrupts the meeting or fails to comply with his or her direction.

94. Petitions and Joint Letters

A petition or joint letter presented to the Council will be tabled and received at the next appropriate Council meeting. Petitions or letters will then be forwarded to the appropriate Director to action as required.

95. Signing Petitions

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

Penalty: One (1) Penalty Unit

96. Councillor Presenting Petition - Obligations

Any Councillor presenting a petition or joint letter will be responsible for ensuring that:

- (a) he or she is familiar with the contents and purpose of the petition or joint letter; and
- (b) the petition or joint letter is not derogatory or defamatory.

Division 8 - Miscellaneous

97. The Chairperson's Duties and Discretions

In addition to other duties and discretions provided in this Local Law, the Chairperson:

- (a) must not accept any motion, question or statement which appears to the Chairperson to be derogatory, defamatory or embarrassing to any Councillor, member of Council staff, ratepayer, resident or other member of the public; and
- (b) must call to order any person who is disruptive or unruly during any meeting.

PART 9 - COMMON SEAL

98. 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 and one Councillor.
- (3) Any person who uses the Council's common seal without authority is guilty of an offence.

Penalty: Ten (10) Penalty Units

- (4) Any person who uses any replica of the Council's common seal without authority is guilty of an offence.

Penalty: Ten (10) Penalty Units

PART 10 - ENFORCEMENT AND PENALTIES

99. Infringement Notices

- (1) Any person who has committed an offence against this Local Law may be prosecuted in the State of Victoria.
- (2) As an alternative to prosecution for an offence, an authorised officer may issue an infringement notice containing the information required by the *Infringements Act 2006* (Vic) in the form set out in Schedule 1.
- (3) To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued or within an extended time period as permitted by the authorised office.
 - (a) If payment is made within this time the offence is to be deemed to be discharged.
 - (b) If payment is not made within this time and the notice is not withdrawn the authorised officer may pursue the matter by:
 - (i) prosecuting for the offence; or
 - (ii) taking the steps available under the *Infringements Act 2006* (Vic) for enforcing penalties by registration of infringement notices.

NOTE: A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court. The fixed penalty amounts in respect of offences against this Local Law are set out in Schedule 2.

100. Payment of Penalty

- (1) A person issued with an infringement notice may pay the penalty indicated to:

Chief Executive Officer
Hindmarsh Shire Council
PO Box 250
NHILL VIC 3418

SCHEDULE 1 - INFRINGEMENT NOTICE

Date:

To: (name and address)

I, [name of authorised officer] have reason to believe that you have committed an offence against the Processes of Municipal Government Local Law of the Hindmarsh Shire Council as indicated below:

Date	Time	Clause of Local Law	Penalty
Description of the offence:			
Location of the offence:			

You are entitled to disregard this notice and defend the prosecution for an offence in Court.

SCHEDULE 2 – GUIDE TO BE USED IN DETERMINING THE ORDER OF BUSINESS

The Chief Executive Officer/the Council might list items on the agenda by giving priority as follows:

1. Opening Prayer
2. Apologies
3. Confirmation of Minutes
4. Disclosure by Councillors of any interest or conflicts of interest in any item on the agenda.
5. Public Question Time
6. Deputations
7. Councillor Activity Reports
8. Planning Permit Reports
9. Reports requiring a decision
10. Reports for noting
11. Other Business
12. Council Diary
13. Senior Officer Activity Reports
14. Confidential Reports

Any proposal to significantly change the order of business on a regular basis should be the subject of discussion between the Council and the Chief Executive Officer.

Councillors or members present at a meeting must disclose any interest or conflicts of interest immediately before consideration or discussion on an item of business to which their interest or conflicts of interest relates and must disclose the nature of that interest or conflicts of interest.

The Chief Executive Officer must cause to be brought to the attention of any meeting the nature of any interest or conflicts of interest disclosed to him or her by a councillor or member of a special committee who is not present at the meeting.

Resolution for the making of this Local Law was agreed to by the Council on the 23rd day of June 2014.

THE COMMON SEAL OF HINDMARSH
SHIRE COUNCIL was affixed hereto by authority of
the Council under the Local Government Act 1989
in the presence of:

Chief Executive Officer Anthony Joseph Doyle

Signature



and

Mayor Robert Leonard Gersch

Signature

