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**TOWONG  
SHIRE COUNCIL**

# **TOWONG SHIRE COUNCIL**

## **LOCAL LAW NO. 1**

### **MEETING PROCEDURES AND USE OF THE COMMON SEAL**

**Adopted by Council on 5<sup>th</sup> September 2011**

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# **MEETING PROCEDURES AND USE OF THE COMMON SEAL LOCAL LAW NO. 1**

## **PART ONE - PRELIMINARY PROVISIONS**

### **1. Title**

This is the Towong Shire Council Meeting Procedures and Use of the Common Seal Local Law No. 1

### **2. Purposes**

The objectives of this Local Law are to:

- (a) regulate and control the procedures governing the conduct of meetings of the Council and of Special Committees appointed by the Council;
- (b) regulate and control the election of Mayor, Deputy Mayor and the Chairpersons of any Special Committees;
- (c) regulate and control the use of the Council's seal;
- (d) promote and encourage community participation in the system of local government;
- (e) provide a mechanism 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;
- (f) provide for the administration of the Council's powers and functions; and
- (g) provide generally for the peace, order and good government of the municipal district.

### **3. The Power to Make this Local Law**

This Local Law is made under sections 5, 91 and 111 of the Local Government Act 1989.

### **4. Commencement, revocation and areas of operation**

- (1) This Local Law:
  - (a) commences operation on 5<sup>th</sup> September 2011; and
  - (b) unless sooner revoked, ceases operation on 4<sup>th</sup> September 2021.
- (2) This Local Law applies to all meetings of the Council including the meetings of any Special Committees appointed by the Council.

## 5. Revocation of other Local Laws

This Local Law replaces Local Law No. 1 – Meeting Procedures, which expired on 30 December 2009.

## 6. Definitions of words used in this Local Law

Unless the context or subject-matter indicates otherwise, the following words and phrases have the meanings respectively assigned to them:

<b>“Act”</b>	Means the Local Government Act 1989
<b>“authorised officer”</b>	Means a person appointed by the Council to be an authorised officer under section 224 of the Act
<b>“Chair”</b>	Refers to the Chairperson
<b>“Chairperson”</b>	The person who chairs a meeting of the Council or special committee of the Council
<b>“Chief Executive Officer”</b>	Means the person appointed by the Council to be the Chief Executive Officer of the Council or any person acting as the Chief Executive Officer
<b>“Council”</b>	Means Towong Shire Council
<b>“Councillor”</b>	Means a person who is an elected member of the Council
<b>“Council meeting”</b>	Includes Ordinary and Special Meetings of the Council
<b>“Deputy Mayor”</b>	Means a Councillor who has been elected to the position of Deputy Mayor to act on behalf of the Mayor in his or her absence
<b>“division”</b>	Means an formal count of those for and those against a motion, generally undertakes to remove any doubt as to whether the motion is supported or opposed
<b>“formal motion”</b>	Means one of the following motions which are also known as a procedural motion: <ul style="list-style-type: none"> <li>• “That the matter lay on the table” – clause 39</li> <li>• That the meeting proceed to the next item of business” – clause 40</li> <li>• “That the question be NOT now put” – clause 41</li> <li>• “That the motion be now put” - clause 42</li> <li>• ‘That the motion and amendments now before the meeting be adjourned until...” – clause 43</li> </ul>
<b>“joint letter”</b>	Means any document which is in the form of a letter and bears the signature of two or more people
<b>“Mayor”</b>	Means the Councillor elected to be Mayor and includes the term Shire President
<b>“member”</b>	Refers to a person who is entitled to vote at a meeting of the Council or special committee of the Council

<b>“Minister”</b>	Means the Minister responsible for administering the Local Government Act 1989
<b>“Ordinary Meeting”</b>	Means the regularly scheduled meetings of the Council set in advance by the Council
<b>“petition”</b>	Means any document which seeks the taking of some specified action by the Council, which contains on each page of the document a prayer for the taking of such action, is signed personally by petitioners on each page of the document, and which is presented to the Council by a Councillor
<b>“point of order”</b>	Means a question addressed to the Chairperson of a meeting objecting to something said or to a ruling given in the course of the meeting
<b>“quorum”</b>	Means the minimum number of members of a Council required by this Local Law to be present in order to constitute a valid meeting of the Council or a special committee
<b>“Senior Officer”</b>	Has the meaning set out in the Act
<b>“Special Committee”</b>	Means a Special Committee established by the Council under Section 86 of the Act
<b>“Special Meeting”</b>	Means a meeting of the Council which is not an Ordinary Meeting and which is generally scheduled at short notice
<b>“Suspension of Standing Orders”</b>	Means the suspension of the provisions of this Local Law to facilitate full discussion on an issue without formal constraints

## **PART TWO - ELECTION OF MAYOR AND OTHER CHAIRPERSONS**

### **7. Meeting to elect the Mayor**

A meeting to fill the vacancy of Mayor will be held:

- (a) after the last Saturday in November but not later than 31 December each year (unless the Council has previously resolved that the period of office be for two years); and
- (b) where the position of Mayor otherwise becomes vacant, as soon as practicable after the vacancy has occurred.

### **8. Election of Mayor, Deputy Mayor and Chairs**

- (1) At any meeting to elect the Mayor and Deputy Mayor any Councillor may be elected as a temporary chair to deal with the:
  - (a) receipt of nominations for the election of Mayor and to conduct the election of Mayor in accordance with the provisions of this Local Law;
  - (b) fixing of allowances payable to the Mayor and Councillors;
  - (c) presentation of any Annual Report from the outgoing Mayor.
- (2) The election of Mayor will be carried out by a show of hands.
- (3) In determining the election of Mayor, the following processes 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 more than two 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;
- (4) 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 the Mayor is unable to attend a Council meeting for any reason the Council must appoint an acting Chair to preside over the meeting
- (6) Any election for the appointment of the Deputy Mayor or acting Chair of a meeting of the Council or of a special committee will follow the same procedure as that for an election of Mayor.
- (7) It is a matter for the Council's discretion whether it decides to appoint a Chair of a Special Committee under Section 87 of the Act and the Special Committee must appoint its own Chair if the Council has not.
- (8) The Council may elect a Deputy Mayor who shall act in the capacity of the Mayor on all occasions that the Mayor is absent on leave or attending business away from the municipality or who shall perform supporting duties for the Mayor as specified by the Council except that where on each occasion that the Mayor is absent from a meeting of the Council the meeting shall elect a Chair from those attending the meeting in accordance with sub-clause (5).

## **PART THREE - COUNCIL MEETINGS**

### **Division 1 – Notices of Meetings and Agendas**

#### **9. Dates and times of meetings**

- (1) The date time and place of all Ordinary Meetings are to be fixed by the Council and the Council must provide at least 7 days notice of the meetings to the public.
- (2) The Council may change the date, time and place of any Council meeting which has been fixed and must provide at least 7 days notice of the changes to the public. If it is not possible to provide 7 days notice, then the Council must specify the urgent or extraordinary circumstances which prevented it from providing notice in accordance with Section 89(4a) of the Act.

#### **10. Special Meetings**

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.

#### **11. Notice of meeting**

- (1) A notice of meeting, which includes 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; and
  - (b) for a Special Meeting, at least 24 hours before the meeting unless urgent circumstances require less notice; and
  - (c) for a Special Committee meeting, at least 48 hours before the meeting.
- (2) The notice of agenda for any meeting must:
  - (a) state the date, time and place of the meeting;
  - (b) state the business to be dealt with; and
  - (c) be delivered to each Councillor by post or by any other method specified by the Council.
- (3) A notice may be handed personally to a Councillor within the time required provided a written authorisation of the relevant Councillor is held by the Chief Executive Officer.

## **12. Leave of absence**

It will not be necessary for a notice to be sent to any Councillor who has been granted leave of absence, unless the Councillor has made a written request to the Chief Executive Officer to continue to give notice of any meeting to be held during the period of his or her absence.

## **Division 2 - Quorums**

## **13. Council Meetings**

The quorum required for Ordinary and Special Meetings will be a majority of the Councillors capable of being elected to the Council.

## **14. Special Committee Meetings**

The quorum required for a Special Committee meeting will be not less than the majority of members for the time being appointed to that Special Committee unless the Council determines otherwise.

## **15. Inability to obtain a quorum**

- (1) If a quorum cannot be obtained within thirty (30) minutes of the scheduled starting time of any meeting or adjournment those Councillors present, or if there are no Councillors present, the Chief Executive Officer, or, in the absence of the Chief Executive Officer, a Senior Officer, may adjourn the meeting for a period not exceeding seven days from the date of the adjournment.
- (2) If the meeting is not adjourned as above then the meeting is abandoned and the business to be transacted must be listed as business in a Special Meeting or at the next Ordinary Meeting.

## **16. Inability to achieve or maintain a quorum because of Councillors' Conflicts of Interests**

If, during any meeting or adjournment, a quorum cannot be achieved or maintained due to the number of disclosures of conflicts of interests by Councillors, the Chief Executive 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.

## **17. Notice of Adjourned Meeting**

In any case where a meeting is adjourned, the Chief Executive Officer must give notice verbally or in writing (which can include telephone, fax and email) to all Councillors of the date, time and location to which the meeting has been adjourned.

## **Division 3 – Minutes**

### **18. Keeping of Minutes**

- (1) The Chief Executive Officer is responsible for arranging the taking and keeping of the minutes of each Ordinary and Special Meeting, and each Special Committee meeting which consists entirely of Councillors.
- (2) The Chairperson of any other Special Committee is responsible, in accordance with Section 93(3) of the Act, to ensure that minutes of the meetings of that committee are recorded and provided to the Chief Executive Officer within 4 days of the meeting.
- (3) All minutes must include:
  - (a) the date, place and time of commencement and conclusion of each meeting;
  - (b) the names of the Councillors and whether they were present, an apology or had been given leave of absence;
  - (c) the names of officers in attendance with their organizational title;
  - (d) the name of any other person in formal attendance at the request of the Council, the Chief Executive Officer or Senior Officer, who took an active part in the discussion of any issues on the meeting agenda;
  - (e) the arrival and departure times of Councillors, officers and other persons in formal attendance, including any temporary departures or arrivals during the course of the meeting;
  - (f) all conflicts of interest of a Councillor disclosed at or identified to the meeting;
  - (g) every motion and amendment moved, including the mover and seconder of any motion or amendment;
  - (h) the outcome of every motion put to the meeting and the result of the vote, being Lapsed, Amended, Withdrawn, Carried or Lost;
  - (i) any procedural motions moved;
  - (j) the vote cast by each Councillor on each division called and the way their vote was cast;
  - (k) when requested by a Councillor, a record of that Councillor's support or opposition for any motion;
  - (l) details of failure to achieve or maintain a quorum and any adjournment including reasons and time of the adjournment;
  - (m) details of any question directed or taken upon notice;
  - (n) details of any deputation made to the meeting; and
  - (o) any other matter which the Chief Executive Officer thinks should be recorded to clarify the intention of the meeting or reading of the minutes.

- (4) In addition, the minutes must be consecutively page numbered and contain consecutive item numbers which are clearly headed with subject titles, sub titles where appropriate and file references linking to the Council's central filing system.

## **19. No debate on confirmation of the minutes**

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

## **20. Objection to confirmation of the minutes**

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

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

## **21. Deferral of confirmation of the minutes**

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

# **Division 4 – Business of Meetings**

## **22. The Order of Business**

- (1) Unless the Council resolves otherwise, the business of an Ordinary Meeting will be as follows:
  - (a) Confirming Councillors presence at the meeting;
  - (b) Apologies and granting of leave of absence;
  - (c) Declarations of Councillors' conflict of interests;
  - (d) Confirmation and signing of Minutes of the previous meeting;
  - (e) Assembly of Councillors Record;
  - (f) Petitions, joint letters and declarations;
  - (g) Open Forum;
  - (h) Presentation of reports – Officers and Councillors;
  - (i) Notices of Motion;
  - (j) Urgent Business;
  - (k) Sealing of documents; and
  - (l) Confidential Business.
- (2) No business can be dealt with at a Council meeting or a Special Committee meeting unless:
  - (a) it is contained on the agenda; or

- (b) a motion is carried in favour of the matter being dealt with as Urgent Business
- (3) At an Ordinary Meeting, the Mayor and Councillors may report to the meeting on issues of importance to the Council, notwithstanding that the report is not listed on the agenda provided that:
  - (a) The Councillor who submits the report must submit a copy of that report in writing to the Chief Executive Officer before the close of the meeting for inclusion in the minutes; and
  - (b) No motion relating to the report can be accepted by the Chair unless it is resolved in the manner prescribed in sub-clause (2) relating to Urgent Business
- (4) The Chief Executive Officer may include any matter on an agenda which he or she thinks should be considered at the meeting.
- (5) These provisions apply to meetings of Special Committees except that modifications can be made to deal with the business of the Special Committee.

## **Division 5 – Procedure at Meetings**

### **23. Voting**

In accordance with Section 90(1)(ca) of the Act, voting on any matter in a meeting open to the public must not be in secret. Voting at Council meetings will be by show of hands and all Councillors who are present must vote unless prohibited by the Act.

### **24. How determined**

In determining a question before a meeting of the Council, the Chairperson will first call for those in favour of the motion and those opposed to the motion and will declare the result to the meeting.

### **25. Divisions**

- (1) A division may be requested by a Councillor on any matter.
- (2) The request for a division 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.
- (3) Once a division has been requested the Chairperson will call for a show of hands by those Councillors voting for the motion and then those Councillors opposed to the motion. Voting shall be recorded as in accordance with sub-clause 18(j) of this Local Law.
- (4) 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 matter.
- (5) Once a vote on a matter has been taken, no further discussion relating to the motion will be allowed unless the discussion is-

- (a) for a Councillor to request that his or her opposition to the motion be recorded in the minutes or a register maintained for that purpose; or
- (b) where a subsequent notice of motion follows a rescission motion.

## **26. Application to all meetings**

The provisions of this Division apply to meetings of Special Committees to the extent that they are relevant to the proceedings of any Special Committee, and any reference to a Councillor in those clauses extends to any member of the Special Committee.

## **Division 6 – Motions**

### **27. Chairperson's Duty**

Any motion or amendment which-

- (a) is not clearly expressed or is ambiguous; or
  - (b) is defamatory; or
  - (c) is objectionable in language or nature; or
  - (d) is outside the powers of the Council; or
  - (e) is not relevant to an item of business on the agenda and has not been admitted as urgent business; or
  - (f) purports to be an amendment but is not,
- must not be accepted by the Chairperson.

### **28. Additional 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 or member of the public; and
- (b) must call to order any person who is disruptive or unruly during any meeting.

### **29. Moving a Motion**

The procedure for any motion is-

- (a) the mover must state the motion without speaking to it;
- (b) unless the motion is a formal motion, it must be seconded by a Councillor other than a mover;
- (c) if a motion is not seconded and it is not a formal motion, the motion will lapse for want of a seconder;

- (d) if the motion is seconded, the Chairperson must ask "Is the motion opposed?";
- (e) if no Councillor indicates opposition, the motion must be declared to be carried without being voted on and will be treated as being passed unanimously;
- (f) if a Councillor indicates opposition, then the Chairperson must request-
  - (i) the mover to address the Council on the motion;
  - (ii) the seconder to address the Council on the motion (who may, without speaking to the motion, reserve his or her address until later in the debate);
  - (iii) any Councillor opposed to debate the motion; and
  - (iv) any other Councillors for and against the motion to debate the motion, in turn.

### **30. 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 a right of reply has been taken, the motion must be immediately put to the vote without any further discussion or debate.
- (3) No right of reply is available where an amendment is before the Council.

### **31. Moving an amendment**

- (1) 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.
- (2) An amendment may be proposed or seconded by any Councillor, other than the mover or seconder of the original motion.
- (3) A Councillor may address the meeting once on any amendment (whether or not they have spoken to the original motion) but debate must be confined to the terms of the amendment.
- (4) 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.
- (5) If the amended motion is carried, it then becomes the motion before the Chair.

### **32. 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 foreshadowed motion 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 so if thought appropriate.

### **33. Withdrawal of motions**

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

### **34. 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 and the Chairperson may agree with or refuse such request.

### **35. Motions in Writing**

The Chairperson may require any motion to be submitted in writing where it is lengthy or unclear or for any other reason, and may suspend the meeting while the motion is being written.

### **36. Debate must be relevant to the motion**

- (1) Debate must always be relevant to the question before the Chair, and, if it is not, the Chairperson may request the speaker to confine the 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 not speak further in respect of the matter then before the Chair.

### **37. Time Limits on Speaking to Motions**

- (1) Unless a motion for an extension of time has been carried, the maximum speaking times will be:
  - (a) the mover of the motion – three minutes;
  - (b) the mover of the motion when exercising his or her right of reply – three minutes;
  - (c) any other Councillor – three minutes.
- (2) 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.
- (3) 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.
- (4) A motion for the extension of speaking time cannot be accepted by the Chair if another speaker has commenced his or her contribution to the debate.
- (5) Any extension of speaking time must not exceed three minutes.

## **Division 7 – Formal Motions**

### **38. Formal motions**

- (1) Unless otherwise prohibited, a formal motion may be moved at any time and must be dealt with immediately by the Chairperson.
- (2) Formal motions are not required to be seconded.
- (3) The mover of a formal motion must not have moved, seconded or spoken to the question before the Chair or any amendment of it.
- (4) A formal motion cannot be moved by the Chairperson.
- (5) Unless otherwise provided, debate on a formal motion is not permitted and the mover does not have a right of reply.
- (6) Unless otherwise provided, a formal motion cannot be amended.
- (7) The Chairperson may request that the mover of a formal motion provide an explanation for the movement of the formal motion in question.

### **39. Laying the question on the table**

- (1) A motion may be moved “that the (question, letter, document, report etc.) 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 will be adjourned; and
  - (c) prevents debate on the matter currently before the Council proceeding until a motion to take the question from the table is passed.

### **40. 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 the 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.

#### **41. The previous question**

- (1) A motion may be moved "That the question be NOT now put"-
- (2) The motion in sub-clause (1):
  - (a) is a formal motion which cannot be moved while there is an amendment before the Chair or during the election of a Chairperson;
  - (b) if carried, prevents the original motion to which it relates being dealt with at that meeting or any adjournment of it; and
  - (c) if lost, requires that the original or substantive motion to which it relates be put to the vote immediately without any further debate or amendment.
- (3) The Chairperson has the discretion to reject a motion for the previous question if the matter is contentious by nature or has not been adequately debated.
- (4) Adequate debate arises when every Councillor who wishes to put a view has had an opportunity to do so.

#### **42. The closure**

- (1) A motion "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 the discretion to reject such a motion for closure if the motion upon which it is proposed has not been sufficiently debated.

- (4) Sufficient debate arises when those possessing different views have been given a opportunity to state them.

### **43. 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 time, date and place of the proposed amendment; 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 8 - Points of Order**

### **44. Chairperson to decide**

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

### **45. 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 the majority of the Councillors present move a motion of dissent.
- (2) A motion of dissent on a point of order must contain the rule, provision, practice or precedent relied upon 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 he or she will maintain his or her right to a second vote.
- (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.

### **46. Procedure for point of order**

A Councillor raising a point of order must state:

- (a) the point of order; and

- (b) the rule, provision, practice or precedent forming the basis of the point of order.

#### **47. Valid points of order**

- (1) 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.
- (2) Expression of a mere difference of opinion or contradiction of a speaker will not be treated as a point of order.

#### **48. Adjournment and Resumption of meeting**

- (1) The Chairperson 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.

### **Division 9 – Notices of Motion**

#### **49. Must be listed on Agenda**

- (1) 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.
- (2) A Councillor may give notice of motion on any matter he or she wants discussed at a meeting by delivering a notice of motion outlining the subject and the motion proposed for discussion to the Chief Executive Officer at least 7 days prior to the meeting at which the matter is proposed to be considered.

#### **50. 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.

#### **51. 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.

## **52. Register of notice**

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

## **53. May be moved by a Councillor and amended**

- (1) 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.
- (2) If a notice of motion to confirm a previous resolution of the Council cannot be carried in its original form, it is lost.
- (3) Unless the Council resolves to re-list 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 months from the date it was last lost.

## **Division 10 – Notice of amendment or rescission**

### **54. 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 the date when the decision was made.
- (2) A decision will be acted upon once its details have been formally communicated to any person affected by or reliant on the resolution or where the statutory procedure has been carried out as a result of that decision.

### **55. 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 agenda, together with a brief report outlining the criteria required for the motion to be amended or rescinded.

### **56. Criteria to amend or rescind a motion**

- (1) For a decision of the Council to be amended or rescinded, the motion for amendment or rescission must be carried by the majority of the votes cast.
- (2) Unless the Council resolves to re-list 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 months from the date it was last considered.

- (3) If a notice of amendment or rescission is not moved at the meeting for which it is listed, it will lapse.
- (4) A notice of amendment or rescission listed on a meeting agenda may be moved by any Councillor present but cannot be amended.

## **57. 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.

## **58. Register of notices**

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

## **59. Urgent and other business**

A proposal that a previous resolution of the Council be revoked or amended may be considered only if such proposal is included on a Council meeting agenda and cannot be introduced as an item of Urgent Business.

# **Division 11 – Public Participation**

## **60. During Meetings**

- (1) At every Ordinary Meeting up to 30 minutes will be allowed as part of the Open Forum item on the agenda to enable any member of the community to ask a question of the Council. The Council may extend this time by adopting a resolution to do so.
- (2) The Council may also adopt a motion to Suspend Standing Orders in order that a person may address the Council on a specific agenda item.
- (3) The Council may allocate reasonable time to each person who has been allowed by the Council under sub-clause (2) to address the Council, having regard to:
  - (i) the nature of the matter to be discussed;
  - (ii) priorities in relation to other business;
  - (iii) other members of the community present who also wish to address the Council; and
  - (iv) 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.

## **61. Meetings**

Any member of the 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.

## **62. Chairperson may remove**

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

**Penalty: 8 Penalty Units**

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

## **63. Petitions and joint letters**

- (1) A petition or joint letter presented to the Council at a meeting may lay on the table until the next Ordinary Meeting and no motion, other than to receive the petition or joint letter, may be accepted by the Chairperson unless the Council agrees to deal with it earlier.
- (2) A petition or joint letter provided to the Chief Executive Officer at least 3 days prior to the cut off period for the preparation of the agenda shall be included on the agenda and may be followed immediately by a report from an officer providing advice in relation to that matter. Following formal receipt of the petition at the meeting, the Council may consider the report in relation to the petition.

## **64. Signing petitions**

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**

## **65. 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 12 – Other Procedural Matters**

## **66. Suspension of Standing Orders**

- (1) Subject to clause 67, the provisions of this Local Law may be suspended for a particular purpose by resolution of the Council.
- (2) The 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 being discussed.
- (4) The Suspension of Standing Orders should not be used to purely 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.

**67. 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 unless the Suspension of Standing Orders is for the attention of bring forward a particular item listed for resolution later in the agenda.

**68. 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 remain silent until the Councillor raising the point of order has been heard and the point of order disposed of.

**69. Matters not provided for**

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

## **PART FOUR - COMMON SEAL**

### **70. 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 after the Council has resolved to affix the Common Seal to a document 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 be witnessed by a Senior Officer.
- (3) Any person who uses the Council's common seal without authority is guilty of an offence.

**Penalty: 10 Penalty Units**

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

**Penalty: 10 Penalty Units**

## **PART FIVE - ENFORCEMENT AND PENALTIES**

### **71. Penalties**

A person who:

- (a) does not do anything required to be done or does anything forbidden to be done by or under this Local Law; or
  - (b) allow any act or omission which is a contravention of this Local Law
- is guilty of an offence and is liable to the penalty provided for in this Local Law under each clause for that offence.

### **72. Infringement Notices**

- (1) Where an authorised officer believes that a person has committed an offence against this Local Law, the authorised officer may, as an alternative to prosecution, issue and serve on the person an infringement notice in the form of the notice in section 13 of the Infringements Act 2006.
- (2) The fixed penalty in respect of an infringement is the amount set out in Schedule 1.

### **73. Payment of Penalty**

- (1) A person issued with an infringement notice may pay the penalty indicated to the Council at the Council Offices or via mail to PO Box 55, Tallangatta, 3700.
- (2) To avoid prosecution, the penalty indicated must be paid by the date stipulated on the infringement notice.
- (3) A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court by advising of their intention to do so on or before the date specified in the notice for payment of the penalty.

## SCHEDULE 1

### PENALTIES FIXED FOR INFRINGEMENTS

PROVISION	OFFENCE	Penalty Units	Maximum Penalty Units
		Infringement Notice	Court Imposed
62	Failing to comply with a direction of the Chair	2	8
64	Fraudulently signing a petition or joint letter	3	10
70(3)	Using the Seal without authority	5	10
70(4)	Using a replica of the Seal without authority	5	10

## CERTIFICATION OF LOCAL LAW

This local law was made and issued by Towong Shire Council.

THE COMMON SEAL of the TOWONG )  
SHIRE COUNCIL was affixed in the )  
presence of: )

..... CHIEF EXECUTIVE OFFICER

..... WITNESS

This .....day of ..... 2011.

### MEETING PROCEDURES AND USE OF THE COMMON SEAL LOCAL LAW NO. 1

The Public Notice required to be given by Section 119(2) of the Local Government Act 1989 appeared in the *Government Gazette* [insert details].

This local law commenced operation on 5<sup>th</sup> September 2011 and will expire on the 4<sup>th</sup> September 2021

I certify that this document containing pages 1 - 29 is a true copy of the Meeting Procedures and Use of the Common Seal Local Law No. 1 made by Towong Shire Council on 5<sup>th</sup> September 2011, in accordance with the requirements of the Local Government Act 1989.

.....  
(CHIEF EXECUTIVE OFFICER)

#### History of Local Law

Date Made	Amended	Operation Date	Gazettal Date	Title	Council File
05/09/2011		05/09/2011		Meeting Procedures and Use of the Common Seal Local Law No. 1	02/01/0007

