Local Law No. 2 – Common Seal and Miscellaneous Penalties

(Adopted by Council 7 September 2020)

Local Law No. 2 – Common Seal and Miscellaneous Penalties

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PART 1 - PRELIMINARY PROVISIONS

1   Title

1.1   This Local Law is titled Local Law No.2 of 2020 – Common Seal and Miscellaneous Penalties.

2   Purpose of Local Law

2.1   The purpose of this Local Law is to:

    2.1.1   Regulate and control the use of Council's Common Seal;

    2.1.2   Regulate the types of offences and penalties applicable at Council meetings; and

    2.1.3   Repeal Local Law No. 2 of 2019 – Council Meeting Procedures & Common Seal.

3   Power for Making this Local Law

This Local Law:

3.1   Is made under Section 14 of the 2020 Act, and Part 5, in particular Section 111(1) of the 1989 Act; and

3.2   Was prepared following due consideration of the Charter of Human Rights and Responsibilities Act 2006.

4   Revocation

4.1   Local Law No. 2 of 2019 – Council Meeting Procedures and Common Seal is revoked on the day this Local Law comes into operation, save that any notice or consent given or any business, matter or thing commenced, made or done under the repealed local law is not affected.

5   Sunset Provision

5.1   This Local Law ceases to operate on the tenth anniversary of its commencement, unless earlier revoked.

6   Commencement

6.1   This Local Law comes into operation on (date to be inserted) 2020.

7   Definitions

Unless the contrary intention appears in this Local Law, the following words and phrases are defined to mean:

'1989 Act' means the *Local Government Act 1989;*

'2020 Act' means the *Local Government Act 2020;*

'Chief Executive Officer' means the Chief Executive Officer of Council, and includes a person acting as Chief Executive Officer;

'clause' means a clause of this Local Law;

'Common Seal' means the Common Seal of Council;

'Council' means the Surf Coast Shire Council;

'Deputy Mayor' means the Councillor appointed to the role of Deputy Mayor to represent the Mayor and act in the Mayor's role in the event of the Mayor's absence, and elected in accordance with the Governance Rules;

'Mayor' means the Mayor of Council and/or any person acting as Mayor;

'offence' means an act or default contrary to this Local Law;

'penalty unit' means penalty units as prescribed in the *Sentencing Act 1992;*

'resolution' means a formal determination by a meeting of Council or delegated committee;

'written' includes duplicated, photocopied, photographed, emailed, faxed, printed and typed.

PART 2 – COMMON SEAL

The purpose of this Part is to;
- *regulate the use of the Common Seal, which is a device which formally and solemnly records the collective will of the Council; and*
- *prohibit the use of the Common Seal or any device resembling the Common Seal, as required by section 14 of the 2020 Act.*

8 Common Seal

8.1 The Council must authorise the use of the Common Seal by resolution.

8.2 The Common Seal and words to be used accompanying it on any document to which it is affixed are as follows:

The COMMON SEAL of SURF COAST)
SHIRE COUNCIL was affixed in the)   [Affix common seal here]
presence of:)

…………………………………………
Chief Executive Officer

…………………………………………
Mayor/Deputy Mayor

8.3 The Chief Executive Officer and, either the Mayor or Deputy Mayor, must sign every document to which the Common Seal is affixed.

8.4 The Common Seal may only be used to sign, seal, issue, revoke or cancel any notice, document, order or agreement pursuant to a decision of Council.

8.5 It is an offence for a person to use the Common Seal or any device or representation resembling the Common Seal without authority given by resolution of the Council.

8.6 In accordance with section 14(2)(b) of the 2020 Act, the Common Seal must be kept at the Council office.

PART 3 – OFFENCES AND PENALTIES

9 Offences

It is an offence at a meeting of the Council:

9.1 For a Councillor to not withdraw an expression which is considered by the Chair to be defamatory, indecent, abusive, offensive, disorderly or objectionable, and to not satisfactorily apologise when called upon twice by the Chair to do so.
Infringement Notice Penalty: 2 units
Penalty: 5 penalty units

9.2 For any person, not being a Councillor, who is guilty of any improper or disorderly conduct to not leave the meeting when requested by the Chair to do so.
Infringement Notice Penalty: 2 units
Penalty: 5 penalty units

9.3 For any person, not being a Councillor, who is guilty of any improper or disorderly conduct at the meeting.
Infringement Notice Penalty: 2 units
Penalty: 5 penalty units

9.4 For any person to fail to obey a direction of the Chair relating to the conduct of the meeting and the maintenance of order.
Infringement Notice Penalty: 2 units
Penalty: 5 Penalty Units

9.5 For a Councillor to refuse to leave the chamber on suspension.
Infringement Notice Penalty: 2 units
Penalty: 5 Penalty Units

9.6 For any person to use the Common Seal of Council or any device resembling the Common Seal without the authority of Council.
Infringement Notice Penalty: 10 units
Penalty: 20 penalty units

10 Infringement Penalties

10.1 If an offence is committed against this Local Law, the Chair shall request the Chief Executive Officer to issue to the offender an infringement notice in a form approved by Council for the relevant number of penalty units as an alternative to a prosecution for the offence.

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

10.3 A person in receipt of an infringement notice is entitled to disregard the notice and defend a prosecution in court.

This Local Law was made by resolution of the Surf Coast Shire Council on 7 September 2020.

The COMMON SEAL of SURF COAST   )
SHIRE COUNCIL was affixed in the   )   [Affix common seal here]
presence of:)

………………………………………………
Chief Executive Officer

………………………………………………
Mayor/Deputy Mayor