

Local Law Community Impact Statement (LLCIS)

Yarriambiack Shire Council Common Seal and Conduct at Meetings Local Law 2020

Yarriambiack Shire Council (**Council**) provides the following information to the community in respect of the Common Seal and Conduct at Meetings Local Law 2020.

1. 1. INTRODUCTION

Council is proposing to make the new Common Seal and Conduct at Meetings Local Law 2020 (**proposed Local Law**).

The proposed Local Law will revoke Council's Meeting Procedures Local Law 2019 (**current Local Law**) and replace the current Local Law to the extent that the current Local Law regulates the use of Council's common seal and creates offences.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council during the public consultation process required under the *Local Government Act 1989 (Act)*.

2. BACKGROUND

The current Local Law addresses the meeting procedure applicable to Council (and Special Committee) meetings. It also regulates the use of Council's common seal and creates an offence for misuse of the common seal and disorderly conduct at Council (and Special Committee) meetings.

The meeting procedure applicable to Council (and Delegated Committee) meetings will now be addressed through Governance Rules made under the *Local Government Act 2020 (2020 Act)*. As part of the transition to the 2020 Act, Council is revoking the current Local Law to make way for its Governance Rules.

However, the use of the common seal cannot be addressed through Governance Rules, nor can offences be created. Accordingly, Council has resolved to repeal the current Local Law and make the proposed Local Law to provide for the continued regulation of Council's common seal and offences in respect of conduct at meetings.

3. OVERVIEW OF PROPOSED LOCAL LAW

The purpose of the proposed Local Law is to:

- revoke the current Local Law;
- regulate the use of the common seal; and
- create offences relating to conduct at Council and Delegated Committee meetings.

The proposed Local Law will come into operation on 1 September 2020 and, unless it is revoked earlier, will expire 10 years after commencement.

On commencement of the proposed Local Law, the current Local Law will be revoked.

Proposed changes brought about by the proposed Local Law are not substantial and will, save for a minor change in terminology, reproduce the existing provisions of the current Local Law with respect to the regulation of the common seal and creation of offences.

Under s 223 of the Act, Council is required to give public notice of the proposed Local Law and invite submissions for a period of at least 28 days.

The statutory consultation period will run from 22 July 2020 to 19 August 2020.

Anyone who makes a written submission can request to be heard in support of their submission at the Council meeting which considers the making of the proposed Local Law, details of which will be provided.

The proposed Local Law has been reviewed by Council's lawyers who confirm that it complies with all regulatory requirements.

A copy of the proposed Local Law is attached (**Attachment 1**) to this Community Impact Statement.

4. EVALUATION OF THE PROPOSED LOCAL LAW

In accordance with Guidelines issued by the Minister for Local Government in relation to the making of local laws, Council has conducted an evaluation of the Proposed Local Law. The evaluation is outlined in the following Table.

Issue	Evaluation
Objectives	The objectives of the proposed Local Law are to: <ul style="list-style-type: none"> • revoke the current Local Law; • regulate the use of the common seal; and • create offences relating to conduct at Council and Delegated Committee meetings.
Legislative Framework	The Act gives councils broad powers to make local laws with respect to any function or power of the council and the 2020 Act gives councils the power to make local laws with respect to use of their common seals. The proposed Local Law addresses matters within Council's broad functions and powers.
State legislation more appropriate	State legislation permits Council to make Local Laws with respect to the use of its common seal and the orderly conduct of meetings. In developing the proposed Local Law, Council has not sought to address any issues which it considers are best addressed at the State or Federal level.
Overlap with existing legislation	The proposed Local Law does not overlap with existing legislation, rather it operates in conjunction with the requirements of the 2020 Act.
Planning Scheme	Not applicable.

Issue	Evaluation
Legislative Approach	<p>Council has taken a high impact regulatory approach that is considered appropriate to:</p> <ul style="list-style-type: none"> • facilitate the orderly conduct of Council and Delegated Committee meetings; and • provide clear accountability for appropriate use and safekeeping of the common seal. <p>All provisions of the proposed Local Law are open to public scrutiny and comment.</p>
Performance Standards or Prescriptive Details	<p>Council has adopted a prescriptive approach to the proposed Local law because its purpose is to prescribe the circumstances in which:</p> <ul style="list-style-type: none"> • offences may be committed; and • Council's common seal may be lawfully used.
Risk Assessment	<p>No formal risk assessment has been undertaken.</p> <p>Council does not consider that there are any risks associated with the proposed Local Law.</p>
Measures of Success	<p>The success of the proposed Local Law will be measured by monitoring the level of compliance with the proposed Local Law.</p>
Permits and Fees	<p>The proposed Local Law does not make provision for the issue of permits and does not prescribe any fees.</p>
Penalties	<p>All offences created under the proposed Local Law attract varying maximum penalties, ranging from 2 penalty units to 5 penalty units.</p> <p>Council has compared the general level of penalties provided for in the proposed Local Law with the Local Laws of other like and neighbouring councils.</p> <p>Council is satisfied that penalties are similar in nature and amount to like and neighbouring councils and are sufficient to act as a deterrent for most offences while also reflecting the seriousness of those offences.</p>
Restriction of competition	<p>Not applicable.</p>
Comparison with other Councils	<p>In drafting the proposed Local Law, Council examined Local Laws from a number of like and neighbouring councils to assess similarities and differences and ensure a reasonable degree of consistency in content, approach and penalties.</p>
Charter of Human Rights	<p>The <i>Charter of Human Rights and Responsibilities Act 2006 (Charter)</i> contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. Councils must not knowingly be in breach of these rights and must always consider them when they create laws, develop policies and deliver services.</p> <p>The proposed Local Law has been reviewed for compatibility with the Charter and is considered to be compatible with the Charter.</p>

Issue	Evaluation
Community Consultation	<p>The proposed Local Law has been reviewed in consultation with Councillors, members of Council staff and Council's legal advisers.</p> <p>A community consultation process will be conducted in accordance with ss 119(2) and 223 of the Act.</p> <p>This will require Council to give public notice of its intention to make the proposed Local Law and provide members of the public with an opportunity to make a written submission to Council in relation to the proposed Local Law. Council will consider submissions received before making a final decision on the proposed Local Law.</p> <p>A person who makes a written submission is entitled to request (in the submission) to be heard by Council in support of his/her submission. When Council makes a final decision on the proposed Local Law, it must notify in writing each submitter of the decision and the reasons for the decision.</p> <p>This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council.</p>

5. ATTACHMENTS

- **Attachment 1** - Proposed YSC Common Seal and Conduct at Meetings Local Law 2020