



Ararat Rural City

Local Law Community Impact Statement (LLCIS)

Ararat Rural City Council Common Seal and Conduct at Meetings Local Law 2020

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

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 Governance Local Law 2012 (**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 Governance Local Law 2012 addresses the election of Mayor and any Deputy Mayor and the order of business at the meeting to Elect the Mayor. 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 is now 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 Governance Local Law.

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 19 January 2021 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 3 December 2020 to 31 December 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 10 penalty units to 20 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** - Proposed Common Seal and Conduct at Meetings Local Law 2020



Ararat Rural City

Proposed new Common Seal and Conduct at Meetings Local Law 2020

DOCUMENT CONTROL

Category Type: Local Law

Type: Council

Responsible Officer: Governance and Administration Coordinator

Last Review Date: N/A

Date Approved: November 2020

Next Review Date: October 2030

Stakeholder Engagement:

Councillors

Chief Executive Officer

Community



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PART A - INTRODUCTION

1. Title

This Local Law will be known as the "Common Seal and Conduct at Meetings Local Law 2020".

2. Purpose of this Local Law

The purpose of this Local Law is to:

- 2.1 revoke Council's Governance Local Law 2012;
- 2.2 regulate the use of the Common Seal; and
- 2.3 prohibit unauthorised use of the Common Seal or any device resembling the Common Seal.

3. Authorising Provision

This Local Law is made under section 14 of the *Local Government Act 2020* and section 111(1) of the *Local Government Act 1989*.

4. Commencement and End Dates

This Local Law:

- 4.1 commences operation on 19 January 2021 and operates throughout the Municipality; and
- 4.2 ends on the 10th anniversary of the day on which it commenced operation, unless revoked earlier by Council.

5. Revocation of Governance Local Law

On the commencement of this Local Law, Council's Governance Local Law 2012 is revoked.

6. Definitions and Notes

- 6.1 In this Local Law:

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

"Authorised Officer" means a person appointed as an authorised officer under section 224 of the *Local Government Act 1989*;

"Chairperson" means the Chairperson of a Meeting and includes an acting, a temporary and a substitute Chairperson;

"Chief Executive Officer" means the Chief Executive Officer of Council or the person acting in or performing the position Chief Executive Officer;

"Common Seal" means the common seal of Council;

"Council" means Ararat Rural City Council;

"Council Meeting" means a meeting of Council;

"Delegated Committee" means a delegated committee established under section 63 of the Act;

"Delegated Committee Meeting" means a meeting of a Delegated Committee;

"Mayor" means the Mayor of Council;

"Meeting" means a Council Meeting or a Delegated Committee Meeting;

"Municipality" means the municipal district of Council;

"Offence" means an act or default contrary to this Local Law; and

"Penalty Units" mean penalty units has the same meaning as in section 110 of the *Sentencing Act 1991*.

- 6.2 Introductions to Parts, headings and notes are explanatory notes and do not form part of this Local Law. They are provided to assist understanding.



PART B - COUNCIL'S COMMON SEAL

7. Council's Common Seal

- 7.1 The Chief Executive Officer must ensure the security of the Common Seal at all times.
- 7.2 The Chief Executive Officer will keep a register detailing each occasion on which the Common Seal is affixed to a document and:
- 7.2.1 a description of the document to which the seal was affixed;
 - 7.2.2 the date on which the Common Seal was affixed; and
 - 7.2.3 the date of the authorising Council resolution.
- 7.3 The Common Seal may only be used with the authority of a resolution of Council given either generally or specifically.
- 7.4 Unless Council resolves otherwise, the affixing of the Common Seal to any document must be attested to by the signatures of both:
- 7.4.1 The Mayor and the Chief Executive Officer.
- 7.5 Where the Common Seal is affixed to a document following a Council resolution, the sealing attestation must contain the following words:

<p>The Common Seal of the Ararat Rural City Council was affixed hereto in accordance with the resolution of the Council made on DAY MONTH YEAR</p> <p style="text-align: right;">Mayor _____</p> <p style="text-align: center;">Chief Executive Officer _____</p>

- 7.6 A person must not use the Common Seal, any replica of the Common Seal or any other device resembling the Common Seal without the authority of Council.

Penalty for first Offence: 10 Penalty Units

Penalty for second or subsequent Offence: 20 penalty units

PART C - OFFENCES

8. Offences

Any person, including a Councillor, is guilty of an Offence if that person:

- 8.1 fails to comply with the Chairperson's direction when called to order; or
- 8.2 fraudulently signs a petition or joint letter which is presented to the Council.

Penalty for first Offence: 10 penalty units

Penalty for second or subsequent Offence: 20 penalty units

9. Enforcement

- 9.1 Where a person engages in conduct constituting an offence against this Local Law, an Authorised Officer may, as an alternative to prosecution, issue the person with an infringement notice in accordance with the *Infringements Act 2006*.
- 9.2 The penalty for an infringement notice issued under clause 9.1 is three penalty units.

10. Payment of Penalty

- 9.3 A person issued with an infringement notice under clause 9.1 may pay the penalty indicated in accordance with the information included on the infringement notice.
- 9.4 To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued.
- 9.5 A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court.

Proposed New Common Seal and Conduct at Meetings Local Law 2020



Ararat Rural City

Resolution for making this Local Law was agreed to by Ararat Rural City Council on the ***(insert date)***.

The Common Seal of the
Ararat Rural City Council
was affixed hereto in accordance with
the resolution of the Council made on
DAY MONTH YEAR

Mayor _____

Chief Executive Officer _____

Notices of the proposal to make and of making of this Local Law were included in the Victorian Government Gazette dated the ***(insert date)*** and ***(insert date)*** respectively.

Public notice of the proposal to make and confirmation for the making of this Local Law were inserted in the (a local paper) on ***(insert date)*** and ***(insert date)*** respectively.

A copy of this Local Law was sent to the Minister for Local Government on ***(insert date)***.