

Draft Local Law No. 15 - Common Seal and Conduct at Meetings

Community Impact Statement



PART A - General Comments

Introduction

Maroondah City Council is proposing to adopt a new Local Law entitled '*Local Law No. 15 - Common Seal and Conduct at Meetings*' to incorporate changes in local government legislation brought about by the *Local Government Act 2020* (LGA 2020).

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 the Council during the public consultation process.

Background

The commencement of LGA 2020 has introduced a requirement for Council to adopt Governance Rules for the conduct of its meetings.

Governance Rules 2020 were subsequently adopted by Council at its meeting on 31 August 2020, at which time meeting procedures as contained within the existing Local Law entitled '*Local Law No. 12 - Meetings Procedure and Use of Common Seal*' were removed and included in the Governance Rules.

However, the Governance Rules cannot include provisions for use of the Common Seal and application of penalties.

Accordingly, draft *Local Law No. 15 - Common Seal and Conduct at Meetings* has been prepared and is available for public inspection and comment in accordance with section 73 of the *Local Government Act 2020*.

Objectives

The objectives of this Local Law is to:

- Revoke Local Law No. 12 - Meetings Procedure and Use of Common Seal,
- Regulate and control the use of the Common Seal,
- Prohibit unauthorised use of the Common Seal or any device resembling the Common Seal, and
- Provide penalties for non-observance of the provisions of this local law.

PART B - Comments on 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 the following Table.

Issue	Evaluation
Measures of success of proposed Local Law	<p>The success of the proposed Local Law will be measured by the extent to which it enhances the governance framework including ensuring that legislative requirements are met.</p> <p>Performance indicators are included in the Local Government Performance Reporting Framework and Community Satisfaction Survey which are reported to Council and the community.</p>
Existing legislation which might be used instead	<p>The <i>Local Government Act 2020</i> (the Act) requires Councils to hold a Common Seal that should be used in accordance with the Local Laws of the Council.</p> <p>Section 79 of the <i>Local Government Act 2020</i> states that Councils may include penalties in their Local Law, not exceeding 20 Penalty Points.</p> <p>These legislative requirements provide the legal basis for Councils to create specific Local Laws to regulate the use of the Common Seal and to set penalties for various offences.</p>
State legislation more appropriate	Not applicable. State Legislation compels Council to make a Local Law to govern the use of the Common Seal.
Overlap of existing legislation	It is not considered that the proposed Local Law overlaps existing legislation, rather it operates in conjunction with the requirements of LGA 1989 and LGA 2020.
Overlap of planning scheme	There are no provisions in the proposed Local Law which overlap with the Maroondah Planning Scheme
Risk assessment	The proposed Local Law ensures appropriate use of the Common Seal. Council does not believe there are any risks associated with the proposed Local Law.
Legislative approach adopted	The proposed Local Law is necessitated by the provisions of LGA 2020. It adopts a high impact regulatory approach. This approach is considered appropriate as it provides clear accountability for appropriate use and safekeeping of the Council Seal.
Restriction of competition	There are no National Competition Policy implications associated with the proposal.
Penalties	<p>The proposed Local Law creates a minimal number of offences.</p> <p>Penalties for these offences are considered reasonable.</p> <p>Benchmarking indicates the penalties prescribed are reasonable when compared with equivalent local laws of other municipalities.</p>
Permits & Fees	The proposed Local Law does not make provision for the issue of permits or prescribe any fees.

<p>Performance standards or prescriptive</p>	<p>Drafting of the proposed Local Law has adopted a prescriptive approach which is considered appropriate given its purpose is to describe the use of the Common Seal.</p>
<p>Comparison with neighbouring and like Councils</p>	<p>Each council in Victoria is required to make a Local Law to regulate the use of its Common Seal. The proposed Local Law is generally consistent with that of other Victorian Councils.</p>
<p>Charter of Human Rights</p>	<p>Council regards the Victorian Charter of Human Rights and Responsibilities (the Charter) as an important reference in the development of Local Laws to ensure that such laws do not encroach upon a person's basic human rights, freedoms and responsibilities.</p> <p>As a public authority, Council appreciates its obligation to ensure that Local Laws are interpreted and applied consistently with fundamental human rights.</p> <p>Council has found that although certain clauses of the Local Law purport to regulate the conduct of both visitors and members (Councillors) of the Council, their inclusion is necessary to ensure the efficient and respectful conduct of Council business.</p>
<p>Community Consultation & Submissions</p>	<p>A submissions process will be conducted in accordance with the legislative requirements prescribed under section 73 of the Local Government Act 2020. That process requires Council to publish a public notice calling for written and/or oral submissions in relation to the proposed Local Law.</p> <p>Those submissions must then be considered by Council as part of the consultation process. This may include a Hearing of Submissions Committee meeting if any person requests the opportunity to be heard in support of their submission.</p>
<p>Submissions</p>	<p>A community consultation process will be conducted in accordance with sections 73 and 55 of the Local Government Act 2020. This requires that Council 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 in relation to the proposed Local Law.</p> <p>Council will consider submissions before making a final decision on the proposed Local Law. A person who makes a written submission is entitled to request (in the submission) to be heard by the Council in support of their submission.</p> <p>When the 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.</p>

PART C - Comments on specific parts or provisions of proposed Local Law

Part 2 – Common Seal	Required under the Local Government Act 2020 to regulate the use of Council’s Common Seal which affirms the collective will of the Council.
The problem the provision is intended to address	Councils are required to hold a Common Seal and to ensure this is kept in a safe place with restricted use, as described in this Local Law.
Description of the problem	Council requires rules to regulate the use of the Common Seal to ensure it is correctly applied and minimise the risk of intentional or unintentional misuse.
Council Objective	To ensure the Common Seal is only used in the circumstances and form described.
How does proposed Local Law provision help achieve objectives?	The Local Law provides clear guidelines on the use and form of the Common Seal.
Part 3 – Penalties	Council considers identification of offences and proportional penalties are required to regulate behaviours at Council meetings to ensure they are conducted in a respectful and orderly manner. Council also considers that a penalty for misuse of the Common Seal is necessary to maintain the integrity of the seal and its significance.
The problem the provision is intended to address	Potential disorderly conduct at Council meetings leading to possible harm, damage to reputation and/or disruption of Council business. Potential misuse of the Common Seal and misrepresentation of Council’s position.
Description of the problem	Potential disorderly conduct at Council meetings and misuse of the Common Seal.
Council Objective	To clearly set out the types of offences and penalties that could apply and to provide advice on options for payment or challenge to anyone receiving a penalty.
How does proposed Local Law provision help achieve objectives?	By providing clear guidance on the types of unacceptable behaviours that could attract a penalty.