

**Proposed
Local Law for the Use of the Common
Seal 2020**

**Community Impact
Statement**

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Community Impact Statement

This Community Impact Statement observes section 111A of the *Local Government Act 1989* to assist the community in understanding the proposed Local Law and its intent.

Part A – General Comments

The proposed Local Law for the Use of the Common Seal (the Local Law) will revoke the Council's existing Governance Local Law 2016, and regulate the use of Council's Common Seal.

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 submission process.

A copy of the Local Law is available on Council's website at www.benalla.vic.gov.au and may be inspected at the Customer Service Centre 1 Bridge Street East, Benalla. Office hours are currently 9am – 1pm Tuesday – Thursday. A copy is also available on request by emailing council@benalla.vic.gov.au or calling 03 5760 2600.

In accordance with section 223 of the Act, the Council has invited interested parties and members of the community to submit comments on the proposed *Local Law* for the consideration of the Council. Submissions are due at 5pm Thursday 19 August and must be made in writing to the Chief Executive Officer:

- PO Box 227, Benalla VIC 3671
- council@benalla.vic.gov.au

Following this public consultation period, in accordance with statutory process, people will have an opportunity to be heard in support of their submissions at a Special Meeting of the Council on 26 August 2020. In the event no submissions are received, the Council will proceed with the statutory process to make the Local Law without further presentation of the Local Law.

Background

The Council's current *Governance Local Law 2016* was made in accordance with the requirements of the *Local Government Act 1989* and encompasses the conduct of Council meetings and special committee meetings, procedures for the use of Council's Common Seal, and offences for persons behaving in contravention of the Local Law.

On 1 May 2020, section 60 of the *Local Government Act 2020* commenced, which relates to the requirement of Council to develop, adopt and keep in force Governance Rules by 1 September 2020.

The creation of Governance Rules means that the *Governance Local Law 2016* is no longer required. Section 3 of the Local Law however governs the authorised use of the Council's Common Seal, which needs to remain in a Local Law.

While the use of the Common Seal plays a largely ceremonial role in the authorisation of documents, some Acts such as the *Land Act 1958* still prescribe the use of a Common Seal for some provisions. To this end a new Local Law is proposed.

In February 2010 guidelines were published by the (then) Department of Planning and Community Development about the process to be followed when making or reviewing existing local laws. These guidelines have been used in the process followed to develop the Local Law.

The Local Law has been developed to support the objective identified in the Council Plan 2017-2021 (2020 Review) as follows:

High Performing Organisation

- *Strengthen community and stakeholder engagement in planning and decision making.*
- *Provide good governance and responsible management and planning.*
- *We are compliant with our legislative and risk management responsibilities.*

Objectives

The objectives of the Local Law are to:

- regulate the use of the Benalla Rural City Council Common Seal; and
- provide for offences in relation to unauthorised use of the Common Seal or any device resembling the Common Seal.

Commencement

The proposed Local Law will come into operation on 1 September 2020, and unless it is revoked earlier, will expire on 31 August 2030.

On the commencement of the proposed Local Law 2020, the current Governance Local Law 2016 will be revoked.

Amendments / changes to the local law

The Local Law 2020 is informed by related processes in the Local Law 2016. They are as follows:

Common Seal

All process from the Governance Local Law 2016 have been replicated .

Offences

All offences have been replicated from the existing Local Law 2016, with no additional offences being added.

Part B – Comments on proposed Local Law overall

Measures of success of proposed Local Law	The success of the proposed local law will be best measured by the extent to which: <ul style="list-style-type: none"> the Council Seal is used appropriately
Legislative framework	Legislation relating to the content of the proposed Local Law 2020 is as follows: <ol style="list-style-type: none"> Section 14(2)(c) of the LGA 2020 states that the Common Seal of a Council must be used in accordance with any applicable local law. Section 111 of the LGA 1989 provides for a Council to make local laws for or with respect to any act, matter or thing for which Council has a function or power under the Act. Section 115 of the LGA 1989 states that Council may prescribe penalties for contravention of a Local Law. Section 117 of the LGA 1989 states that Council may provide for a person to be served with an infringement notice specifying a fixed penalty for an offence against a Local Law as an alternative to a prosecution for the offence.
State legislation more appropriate	Not applicable. The LGA 1989 and LGA 2020 are Victorian legislation set by the state government, and they are the specific pieces of legislation under which local government (councils) in Victoria must operate.
Overlap of existing legislation	The proposed Local Law 2020 operates in conjunction with the requirements of the LGA 1989 and LGA 2020, while not overlapping, duplicating or conflicting with existing state legislation.
Overlap of planning scheme	The proposed local law has no relevance to any Planning Scheme.
Risk assessment	The proposed Local Law 2020 prescribes standards of behaviour for those participating in or presenting at Council meetings, and for the use of Council's Common Seal. No formal risk assessment has been undertaken. Council does not believe there are any risks associated with the proposed local law.
Legislative approach adopted	The proposed Local Law 2020 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	The proposed Local Law relates only to Council governance processes and there are no National Competition Policy implications associated with the proposal.

Penalties	The proposed Local Law creates a minimal number of offences. Benchmarking indicates the penalties prescribed are within the range of equivalent local laws of other municipalities.
Permits and Fees	The proposed local law does not make provision for the issue of permits and does not prescribe any fees.
Performance standards or prescriptive	Council has adopted a prescriptive approach to the proposed Local Law, because its purpose is to prescribe the circumstances in which Council's common seal may be lawfully used.
Comparison with neighbouring and like Councils	In preparation for this Local Law update, a benchmarking process has been undertaken, gathering information from other Councils across the State.
Charter of Human Rights	The proposed Local Law has been considered in accordance with the Victorian Charter of Human Rights and Responsibilities (the Charter). Particular consideration has been given to the following rights under the charter: <ul style="list-style-type: none"> • Right to recognition and equality before the law • Right to privacy and reputation • Right to freedom of expression • Right to take part in public life • Right to a fair hearing Having reviewed the local law, the Council is satisfied that the proposed local law is consistent with the Charter.
Consultation meetings	No public consultation meetings were held during the drafting of this local law. The Local Law has been reviewed within the organisation. The proposed Local Law is subject to a period of public consultation in accordance with section 223 of the <i>Local Government Act 1989</i> . All submissions received must be considered by the Council prior to the Local Law being made.
Submissions	Submissions were invited from the community regarding the proposed Local Law. No submissions were received and the Local Law was adopted on 2 September 2020, and a notice published in the Victoria Government Gazette on 10 September 2020 and the Benalla Ensign 9 September 2020.

Part C – Comments on specific parts or provisions of the proposed Local Law

Set out below are details of changes proposed to the existing Local Law.

Section	Proposed amendment
Use of the Common Seal	All process from the Governance Local Law 2016 have been replicated .
Offences	No additional offences have been added. Previous infringement penalties have been retained. Penalty units enforceable for Local Laws are determined by s110(2) of the <i>Sentencing Act 1991</i> .