

Rural City of Wangaratta

Major Council Policy Consultation Impact Statement

for the

Community Amenity Local Law No. 1 - Local Laws Policies

PART A - Background

Council adopted the current Local Law No.1 of 2014 Community Amenity (Amendment) on 16 September 2014. This Local Law is accompanied by the Community Amenity Local Law No. 1 - Local Laws Policies (refer to as policies), which relates to the earlier Local Law 2008. In the absence of a new document, the existing policies have continued to apply. The policies have been amended to complement the Local Law No.1 of 2014 Community Amenity (Amendment).

On December 16 2015, Council endorsed the Draft Rural City of Wangaratta Community Amenity Local Law No. 1 - Local Laws Policies for public exhibition and invite public submissions in accordance with Council's "Major Council Policy Consultation Local Law No.4 of 2015".

Objectives

The policies complement the Local Law No.1 of 2014 Community Amenity (Amendment) by providing:

- explanation, conditions and restrictions relating to each local law
- identification of the responsible unit within Council administering each local law. This information was previously in Community Amenity Local Law No. 1 Permit Issue Guidelines, which is now redundant.
- collating each local law with all associated information to allow users to see all matters related to a local law in the one document.

The amended Local Laws Policies include explanation, conditions and restrictions relating to the following parts of Local Law No.1 of 2014 Community Amenity (Amendment):

- Part Two Activities and Uses Requiring a Permit
- Part Three Conditional Activities and Uses

Structure of the policies

The policies have been structured according to Council's standard policy template. To allow all materials relating to each local law to be available in one document, each policy includes:

- the context, scope and purpose of the local law, to aid the understanding of the user
- statement of the applicable local law, with the same numbering as applies in Local Law No.1 of 2014 Community Amenity (Amendment)
- requirements and/or exemptions relating to the local law
- responsibility for the administration and enforcement of the local law
- reporting and review requirements
- any additional standards or guidelines applicable to the local law

Scope of Consultation

Only the policies have been amended and are presented for consultation.

Local Law No.1 of 2014 Community Amenity (Amendment) has not been amended and is not the subject for this consultation.

For this reason the statement of the local law included in each policy is not part of the consultation process for the policies. However if comment is made, it will be recorded as a reference when Local Law No.1 of 2014 Community Amenity (Amendment) is reviewed in the future.

All other sections of the updated policies are included in this consultation process.

Extent of amendments to policies

The following tables shows the extent of amendment for each policy.

Many of the policies were transferred into Council's policy template without significant change to the wording of the original policy (noted as a minor change).

Some policies have been extensively reviewed and amended, and there are several new policies associated with new local laws adopted in September 2014. (noted as a major change).

Community Amenity Local Law No. 1 Part Two

List of local law sections showing the existence and status of related policies.

PART TWO – ACTIVITIES AND USES REQUIRING A PERMIT	Existing Policy	New Policy	Minor change*	Major Change**
9. Activities and Uses Requiring a Permit (List is a restatement of the Local Law)	NO		✓	
10. Storage of Machinery and Second Hand Goods	NO	NO		
11. Droving of Livestock	YES	YES	✓	
12. Grazing of Livestock	YES	YES	✓	
13. Camping and Temporary Dwellings	NO	NO		
14. Itinerant Trading	YES	YES	✓	
15. Itinerant Trading from House to House	NO	NO		
16. Keeping Excess Numbers of Animals	YES	YES		✓
17. Connecting into Council Drains	NO	YES	✓	
18. Street Appeals, Busking and Street Stalls	YES	YES	✓	
19. Incinerators and Open Air Burning	NO	YES	✓	
20. Obstructions on Council Roads	NO	YES	✓	
21. Rubbish Hoppers and Clothing Recycling Bins	NO	NO		
22. Recreational Vehicles	NO	NO		
23. Using Footpaths	YES	YES		✓
24. Conducting Exercise and/or Personal Training In Public Parks	NO	YES		✓
24a. Advertising vehicles for sale on Council managed roads, car park areas or municipal places	NO	YES		✓
24b. Cutting, collecting, gathering or storing firewood on a road, roadside, municipal place or Council Depot.	NO	YES		✓

* Minor change means the current Local Law has been included in a new policy, with the inclusion of a Context Scope and Purpose, but no additional requirement other than those already included in the Local Law

** A Major change refers to significant changes in the requirements relating to the current Local Law

Community Amenity Local Law No. 1 Part Three

List of local law sections showing the existence and status of related policies.

PART THREE – CONDITIONAL ACTIVITIES AND USES	Existing Policy	New Policy	Minor change*	Major Change**
25. Observing Requirements (List is a restatement of the Local Law)	NO	NO	✓	
26. Location of Trees, Plants, Fences and Signs	NO	YES	✓	
27. Display of Property Numbers	NO	YES	✓	
28. Properly Constructed Vehicle Crossings	NO	YES	✓	
29. Redundant Vehicle Crossings	NO	YES	✓	
30. Movement of Livestock	YES	YES	✓	
31. Adequate Fencing	NO	YES	✓	
32. Keeping of Animals	YES	YES	✓	
33. Control of Cats	NO	YES	✓	
34. Prohibition of Animals in a Public Place	NO	NO		
35. Disposal of Waste and Recyclable Materials	YES	YES	✓	
36. Using Scareguns	YES	YES	✓	
37. Using Floodlighting	NO	YES	✓	

* Minor change means the current Local Law has been included in a new policy, with the inclusion of a Context Scope and Purpose, but no additional requirement other than those already included in the Local Law

** A Major change refers to significant changes in the requirements relating to the current Local Law

PART B – Comments on the proposed Local Laws Policies overall
(referred to as policies)

<p>Measures of success of the proposed policies</p>	<p>Council will measure the success of the policies as follows:</p> <ul style="list-style-type: none"> • Recording levels of compliance/non-compliance using inspection data • Review of enforcement actions taken, including official warnings, notices to comply, infringements and direct prosecutions • Volume of complaints
<p>Existing legislation that may be used instead</p>	<p>There are many pieces of existing legislation that deal with issues covered by the adopted Local Law No.1 of 2014 Community Amenity (Amendment), such as the <i>Road Management Act 2004</i>, the <i>Environment Protection Act 1970</i>, the <i>Tobacco Act 1987</i>, and the <i>Road Safety Act 1989</i>.</p> <p>Accordingly, the proposed policies make reference to appropriate legislation and guidelines and provide a more appropriate local response whilst not overlapping, duplicating or conflicting with existing State legislation.</p>
<p>State legislation more appropriate</p>	<p>State wide regulations would be better and more efficient in controlling many of the issues covered in the Local Law No.1 of 2014 Community Amenity (Amendment) and associated policies because they appear to be the same issues and penalties across most Local Government areas.</p> <p>However, given that that avenue is not available at the present time, Council is of the view that each of the problems identified in relation to the proposed policies is a Council problem and that, accordingly, the provisions of the proposed policies contribute to an appropriate solution.</p>
<p>Overlap of existing legislation</p>	<p>Existing State legislation deals with the following issues which are also dealt with in some general circumstances by Local Law No.1 of 2014 Community Amenity (Amendment) and associated proposed policies:</p> <ul style="list-style-type: none"> • Noise : Environment Protection Act 1970 • Works in Roads : Road Management Act 2004 • Graffiti : Graffiti Prevention Act 2007 <p>Council believes the provisions of the proposed policies supplement the State legislation without duplicating, overlapping or creating any inconsistency.</p>
<p>Overlap of planning scheme</p>	<p>Council does not believe any provision of the proposed policies overlaps, duplicates or creates any inconsistency with any planning scheme. In some instances a local law and proposed policy provides an easier process to be followed for a permit than via the Planning Scheme eg. short term occupation of a caravan</p>

Risk assessment	Council adopted a risk management approach when developing Local Law No.1 of 2014 Community Amenity (Amendment). Risk management has also been considered in development of the associated proposed policies.
Legislative approach adopted	The policies should have a minimal impact on the community and Council, as they are associated with local laws that impose the burden of compliance on the community and the burden of enforcement onto Council. The new format of the policies, including all matters related to a local law assist the community with: <ul style="list-style-type: none"> • clear and transparent permit application, review processes and general conditions; and • clear and transparent enforcement procedures.
Restriction of competition	Council conducted a review of the adopted Local Law No.1 of 2014 Community Amenity (Amendment) in accordance with National Competition Principles and believes that because of the nature and content of that there is no restriction of competition in any way. This also applies to the associated policies.
Penalties	The policies do not influence penalties, which are set out in Local Law No.1 of 2014 Community Amenity (Amendment).
Permits	Permits are issued under the adopted Local Law No.1 of 2014 Community Amenity (Amendment). by a number of work areas of Council. Delegations have also been updated as part of the policies review to clearly identify those council units are accountable for setting conditions and issuing permits.
Fees	Council will continue to set fees annually as part of the budget process.
Performance standards or prescriptive	Where appropriate and possible, Council has adopted a non-prescriptive approach to Local Law provisions, and this also applies to the associated draft policies.
Comparison with neighbouring and like Councils	In the case of a major policy amendment, Council has compared the policy with the existing policies where Councils have a like Local Law.
Charter of Human Rights and Responsibilities	Council assessed adopted Local Law No.1 of 2014 Community Amenity (Amendment) for compatibility with the Charter of Human Rights and Responsibilities and has not found any occurrences where the rights of any individual are impacted upon. This also applies to the associated proposed policies. In summary, Council has found that the few provisions that engaged human rights, mainly to do with restricting movement of people or their actions, were justified by the need to maintain safety for the community at large.

<p>Consultation</p>	<p>In developing the policies the Council has either undertaken or will undertake the following processes:</p> <ul style="list-style-type: none"> • a review of changes in legislation that might impact on the content of the Local Law was also undertaken and appropriate amendments made; • various Council staff reviewed the existing document as to any issues with the current policies; • Council will consider a formal draft of the policies at an Ordinary Council meeting and will be required to adopt the proposed policies in order that the formal public submission process can occur; • Submissions on the proposed policies will be called for in public advertisements with a 28 day submission period available for the public to make written comments, suggestions and objections on the policies; • Council will hear any person making a submission if a person so requests at a meeting with Council or representatives of Council; • Council will then formally consider a report on the submissions and any proposed changes to the proposed policies; • The policies will then be submitted to Council's Legal Advisers for a final check ??? • Council will then adopt the policies and place advertisements in local papers and the Government Gazette after which time the policies comes into force.
<p>Submissions</p>	<p>Council welcomes written submissions and comments at any time during the above processes.</p> <p>The period for submission will be formally advertise. Submissions need to be in written form where possible. Persons not able to make a submission in written form need to contact the Council Office to make alternative arrangements.</p> <p>Persons making submissions may make a request to be heard at a meeting with Council or representatives of Council to discuss their submission. Council will set a time and place for such submitters to be heard.</p>