

Local Laws: it's a bit like Snakes and Ladders

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They are a pain to get promulgated, and no matter how hard you try nor how many local laws you read, there is always something missing when you want to use them – agghhh!

To make a local law, a local government must follow the procedure set out in Division 2, Part 3 of the Local Government Act. Written well, they can provide effective regulation of activities within a district. But it's a bit like a game of Snakes and Ladders...make one mistake throughout the adoption process and you often need to go back several squares and start again.

Fit For Purpose

Local governments create local laws to address specific local issues, from how the Council will conduct its meetings to how people can use local parks and reserves. For instance, do users really want the capacity to have a drone deliver their lunch to the park, or do most people really NOT want a drone to be disturbing the serenity?

Local laws are enforceable through the courts and often carry infringements. It is therefore very important that they are written to be "fit for purpose", and are relevant to each unique community and location.

Gaps in Local Laws

Identifying potential holes in a local law prior to the performance of questionable activities, remains a considerable issue for local governments. For instance, let's consider the woodwork enthusiast who cut off a burl from a nice local tree. *"I have been doing this for years across WA"* he said to the person who confronted him, *"and no-one has ever raised any concerns with me so far!"* Do you think maybe it was because he had a practice of parking his vehicle inconspicuously and walking at least 200 meters inside the reserve before firing up his chainsaw? Possibly!

The question was now being asked of the local government's ranger team by the concerned resident, *"He's taking his chainsaw back to his vehicle. When can you get here to stop him? He should be prosecuted!"* (I think the actual request was that he should be *'burned at the stake!'*)

Key Points

- Local laws can provide effective regulation of activities within a district
- Local laws should be 'fit for purpose'
- Carefully assess the needs of individual local governments to avoid gaps in adopted local laws
- Consider issues experienced by similar local governments

A flurry of activity occurs in the Ranger's section, with questions including:

- Who controls that piece of land?
- Can he be constrained by the resident that witnessed the event?
- What legislation has been breached?
- Is it just the local law, or is there another agency that should be involved?
- Can the Ranger get there in time to secure his name and address?
- Has the new Ranger been properly authorised to act in regard to the local law?

All good questions, but alas, the eventual visit by the Ranger to the site failed to locate the alleged villain or a vehicle. Furthermore, a look at the local law failed to locate a suitable clause or a linked infringement that would have helped. Time to review that local law!

Personalising Local Laws

Although it is difficult to pre-empt conflict, you can reduce the likelihood of encountering these kinds of issues by carefully assessing the needs of your specific local government. Model local laws, while providing a strong legal base, cannot be expected to cover factors unique to individual regions. It is therefore important to consider the qualities that characterise a local government, in order to draft effective local laws.

For instance, it may be useful to consider the following questions:

- What are common points of conflict within the district?
- Do the local laws reflect relevant cultural values?
- Have all public amenities within the district been considered?
- What are the common activities undertaken by residents and visitors to the district?
- Have all relevant public submissions been considered?
- What issues have similar local governments experienced in relation to their local laws?

Taking the time to consider defining factors, such as these, ensures local laws are suited to specific local governments. Ultimately, this can mitigate the risk of exposing gaps in local laws at a later date.

“Consider the qualities that characterise a local government”

Oh yes, and those drones. What a wonderful initiative to have your cheese and gherkin sandwich delivered to your picnic blanket upon request! Maybe that should also be added to the list of things that are considered to be “offensive to park users”. It won't be long before someone tries, don't you think?

Disclaimer: This article provides a general summary of subject matter and does not constitute legal advice. The law may change and circumstances may differ. Therefore, you should seek legal advice for your specific circumstances.

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