

LOCAL LAWS COMMUNITY IMPACT STATEMENT

Community Local Law 2023

PART A – GENERAL COMMENTS

In order to promote the efficient and effective enforcement and administration of municipal activities and protect the amenity of the local community, Council is proposing to repeal the current *General Local Law No. 11* which is due to expire on 31 December 2025 and replace it with the *Community Local Law 2023*.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any person who may choose to engage with Council as part of Council's community engagement process.

Under the *Local Government Act 2020*, Local Laws cease to have effect after 10 years, necessitating the adoption of a new Local Law in order to continue to protect and enhance community amenity.

The proposed replacement Local Law has removed unnecessary duplications and administrative matters. Council's enforcement requirements have been refined, creating a user-friendly, 'Plain English' document which does not compromise Council's enforcement powers and functions.

In order to inform the preparation of the proposed Local Law, Council undertook a preliminary community engagement process during April and May 2022. The engagement activities undertaken included face to face pop up listening posts, meetings with Council's Advisory Committees and other external partnership committees (Liquor Accord) and an online survey through Council's Your Say Maroondah webpage. The findings of the engagement are found in the *General Local Law Review Report on Consultation July 2022*, which can be accessed on Council's YourSay webpage.

Areas of concern and emerging issues which have been addressed by the proposed draft Local Law either through the insertion of new provisions or the strengthening of existing clauses include:

- Ensuring footpaths are kept free from obstructions and overhanging branches to improve safety and accessible use;
- Management of donation bins to ensure the surrounding area is kept in a clean condition, irrespective of where the bin is placed;
- The introduction of new clauses and amending existing clauses, to manage the condition of buildings sites, including noise, to ensure that surrounding areas and Council assets are not adversely affected by building works;

- The introduction of Waste Services Guideline 2023 as an incorporated document to better educate and regulate community concerns with domestic waste and hard waste collection in addition to other changes to the waste collection program;
- Increased controls around managing animal behaviour including animal owners not picking up after their animals and injuries caused by animals not under effective control;
- Unoccupied/abandoned properties (commercial and residential) are more likely to be damaged or vandalised and can become a risk to neighbouring properties. New definitions of dangerous, derelict and unsightly have been included to provide clear information concerning landowner's responsibilities.
- The introduction of an additional requirement that owners properly secure an unoccupied property to help prevent these properties from adversely impacting the amenity and safety of neighbours;
- The introduction of a new clause to manage the approval process for commercial filming in Maroondah, specifically in public places. Permits issued under the Local Law to allow for commercial filming will be consistent with the film friendly principles as contained in the *Filming Approval Act 2014*;
- Storage of heavy and long vehicles on residential land will now require a permit, helping to ensure that these types of vehicles on residential properties do not cause amenity issues through noise, fumes, or damage to assets;
- The clauses addressing drinking in public places have been amended to better enable Authorised Officers, including Victoria Police members with powers to confiscate open containers of liquor and regulating nuisance behaviour near licensed premises;
- includes enabling provisions within the Local Law to expand smoke free areas across the municipality; and
- The inclusion of considering extenuating circumstances such as homelessness and other vulnerable situations, providing Authorised Officers with the opportunity to exercise their discretion.

In addition, Council's Local Laws team engaged in extensive internal discussions as to how the proposed Local Law could meaningfully address municipal changes, regulatory concerns and emerging issues.

An internal consultation process was then undertaken where Council departments were invited to provide feedback as to:

- clauses which may no longer be utilised and should be removed;
- clauses which need to be amended because they do not properly address community safety and amenity concerns; and/or
- clauses which need to be introduced in response to new issues which have not been previously regulated by Council.

A number of groups sessions were conducted in addition to online meetings with Council’s lawyers to assist in the re-drafting process.

PART B – COMMENTS ON THE PROPOSED LOCAL LAW

<p>Objectives of the Local Law</p>	<p>The objectives of the proposed Local Law are to:</p> <ol style="list-style-type: none"> a) protect the health and safety of persons within the municipal district; b) provide for the equitable, orderly and enjoyable use by people of Council Land, Roads and Council Assets; c) protect, maintain and enhance the natural environment of the municipal district; d) provide for the peace, order and good governance of the municipal district e) regulate the management of animals on land and in public places; and f) provide uniform and fair administration of this Local Law.
<p>Measuring Success</p>	<p>Council will measure the success of the Local Law by -</p> <ul style="list-style-type: none"> • monitoring the level of compliance; • comparing the level of compliance with the previous monitoring; and • assessing the resources required to administer and enforce the Local Law. <p>Council reports annually to the community on the operation of the Local Law through its Annual Report.</p>
<p>Existing Legislation</p>	<p>The <i>Local Government Act 2020</i> gives Councils broad powers to make local laws for or with respect to any act, matter or thing in respect of which the Council has a function or power under legislation.</p> <p>The Local Law will supplement existing State legislation administered and enforced by Council whilst addressing matters within Council’s functions and powers.</p>
<p>State Legislation</p>	<p>In circumstances where State legislation regulates an activity or provides an enforcement pathway, the Local Law does not address</p>

	<p>such matters.</p> <p>The proposed Local Law does not contain any clauses where it is considered that state legislation alone would provide a more appropriate response to the issues concerned.</p>
Overlap of existing legislation	<p>Council does not consider that any provision of the proposed Local Law overlaps with existing State legislation.</p>
Overlap of Planning Scheme	<p>Council does not consider any provision of the proposed Local Law overlaps, duplicates or creates an inconsistency with the Planning Scheme.</p> <p>The proposed Local Law is subordinate to the Planning Scheme.</p>
Risk Assessment	<p>Council has adopted a risk management approach to the review and development of the proposed Local Law. Council does not consider that there are any risks associated with the proposed Local Law.</p>
Legislative approach adopted	<p>Council believes in the minimum imposition on the community with Local Laws. The proposed Local Law reflects this approach by providing for:</p> <ul style="list-style-type: none"> • reasonable penalties; • minimum possible number of provisions which create offences; • where possible, provision for permits rather than prohibition of activities; • reasonable and appropriate permit conditions which will be relied on if a decision is made to issue a permit under the Local Law; and • reasonable enforcement procedures including provision for the giving of warnings where appropriate, the exercise of the officer's discretion and allowing applicants the opportunity to make a submission if a decision to refuse to issue or cancel a permit is being proposed. <p>Council has ensured that the proposed Local Law is expressed plainly and unambiguously and in a manner which is consistent with the language of the enabling Act and in accordance with modern standards of drafting applying within Victoria.</p> <p>The Local Law has also been drafted in compliance with the Local Law requirements contained within s.72 of the <i>Local Government Act 2020</i>.</p> <p>In addition, the proposed Local Law:</p> <ul style="list-style-type: none"> • does not make unusual or unexpected use of the powers conferred by the Act under which the local law is made having regard to the general objectives, intention or principles of that

	<p>Act;</p> <ul style="list-style-type: none"> • does not embody principles of major substance or controversy or contain any matter which principles or matter should properly be dealt with by an Act and not by subordinate legislation; • does not unduly trespass on rights and liberties of the person previously established by law; • does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions; • is not inconsistent with principles of justice and fairness; and • does not duplicate, overlap or conflict with other statutory rules or legislation.
Penalties	<p>The penalties applying to all existing and new Local Law clauses were considered and reviewed.</p> <p>The penalty amounts stated in the proposed Local Law are designed as a deterrent and considered appropriate. They have been intentionally scaled to reflect the impact of the offence on the community and the prevalence of this type of offending.</p> <p>A distinction has been made between offences committed by individuals and bodies corporate with the latter imposing higher penalties where stated.</p> <p>Council is satisfied that the included penalties are consistent in nature and amount with like and neighbouring municipalities.</p>
Permits	<p>A number of provisions in the proposed Local Law require permits for various activities to be obtained. This practice is consistent with the general approach to the issuing of permits within the Local Government sector.</p>
Fees	<p>Council will set any fees that are payable under the Local Law annually as part of the budget process. Council also has the discretion to waive, reduce or defer payment of fees and charges in whole or in part, with or without conditions.</p>
Performance standards or prescription	<p>Where appropriate and possible, Council has adopted a performance-based approach to Local Law provisions.</p>
Comparison with neighbouring Councils	<p>In drafting the proposed Local Law, Council examined the local laws of the following neighbouring Councils:</p> <ul style="list-style-type: none"> • Whitehorse City Council • Manningham City Council • Knox City Council • Shire of Yarra Ranges • Nillumbik Shire Council <p>The purpose of conducting this exercise was to assess the similarities</p>

	<p>and differences between the Councils so as to ensure a best practice approach was adopted in the drafting of Council's proposed Local Law.</p>
<p>Charter of Human Rights & Responsibilities</p>	<p>Council regards the Victorian Charter of Human Rights and Responsibilities 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 human rights.</p> <p>Council has assessed the proposed Local Law for compatibility with the Charter and has found no inconsistencies.</p>
<p>Community Engagement</p>	<p>An engagement process will be undertaken in accordance with Council's Community Engagement Policy following the release of the draft Local Law to the community.</p>
<p>New and amended provisions</p>	<p>Refer to the <i>Maroondah Community Local Law 2023 Summary of Proposed Changes</i> document found on Council's YourSay page.</p> <p>New and amended provisions are also highlighted within the Draft Community Local Law itself.</p>