

Local Law Review

February 2023

Review of Maroondah Local Law

A summary of the proposed changes to the Draft Community Local Law 2023 are outlined below

Each municipality in Victoria creates a Local Law, designed to protect the local amenity as well as regulate activities on Council land and roads for the safe and accessible use for all residents.

Once adopted, a Local Law can be in effect for a maximum of ten years. 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*.

At the outset of the Local Law review, Council undertook an extensive community engagement process during April and May 2022. The purpose was to gain an understanding of what is important to Maroondah residents to enhance the use, access and enjoyment of public places for the community's benefit as well as community expectations regarding compliance and monitoring of these activities.

The engagement activities 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 engagement portal. The findings of the engagement are found in the *General Local Law Review Report on Consultation July 2022*.

Consultation was also undertaken with internal staff and key external stakeholders, including Victoria Police and Council's Community Advisory Committees, to identify:

- Clauses which may no longer be utilised and should be considered for removal;
- Clauses which may need to be amended because they do not adequately address safety or amenity concerns; and
- Clauses which may need to be introduced in response to new issues not currently regulated by Council.

Many clauses in the Draft Community Local Law 2023 have been retained from Council's current Local Law no. 11. Although the wording or format of some clauses may have changed, the substantive purpose and responsibility imposed by the clause, in many instances, remains the same. These administrative amendments are not included in this summary document.

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PART 1 - INTRODUCTION

1.8 Definitions

Some definitions in the current Local Law have been deleted and others have been amended grammatically as required without changing the intent of the definition.

The following definitions have been added:

Building	Noxious Weeds
Camping	Nuisance
Dangerous	Person
Derelict	Person-in-Charge
Dwelling	Road reserve
e-cigarette	Unsightly
Film/Filming	Vehicle crossing
Heavy Vehicle	Vegetation
Incorporated Document	Vermin
Land	Wheeled recreational device

The following definitions have been amended to better reflect current practice:

Building works	Smoke
Bulk waste container	Vehicle
Donation Bin	Waste receptacle (changed to mobile garbage bin)

PART 2 - USE OF COUNCIL LAND AND ROADS

Council recognises that our public spaces have a significant impact on the health and wellbeing of our community and enhance the character of our municipality.

To ensure our public spaces can be shared and enjoyed by everybody in the community, the draft Community Local Law includes a number of provisions to protect these areas. Proposed changes include the following:

2.1 Behaviour on Council Land or Road

Current law: Separates the behaviour and conduct into several different clauses and sections, including municipal buildings and reserves.

Proposed change: Condensed and simplified to include conduct on all Council land (including municipal buildings), and administrative changes made. In general, this clause now prohibits certain behaviours and activities (see Draft Local Law for full list) to protect the accessible use and amenity of the area and reduce impact of damage to council property. Those prohibited behaviours and activities include, not to:

- commit any nuisance

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- conduct an activity or behave in a manner which interferes with another person’s reasonable use and enjoyment
- alter, damage, destroy, remove, interfere with or deface any Council assets
- endanger or causes harm to or injures any person or animal
- damage, destroy, obstruct or interfere with anything
- act contrary to any applicable conditions of use or signage; or
- act contrary to any lawful direction of an Authorised Officer or person in charge of a Council facility.

2.2 Use of Reserves

Current law: there is a section in the current Local Law regarding activities permitted and not permitted on Council reserves.

Proposed change: To highlight specific issues that only relate to Council reserves, this section has been maintained from the current Local Law, but simplified and condensed using simpler language. It also covers what activities are permitted and not permitted in reserves. The specific reference to not permitting drones has been removed. Council considers this appropriate as the role of the Civil Aviation Safety Authority (CASA) is to conduct the safe regulation of air operations across all of Australia, and to ensure that Australian airspace is administered and used safely.

2.4 Filming

Current law: The current Local Law does not regulate filming in public places.

Proposed change: To reflect the possible impact to amenity and traffic that commercial filming may cause, a new clause has been inserted to ensure the appropriate permissions are received prior to engaging in commercial filming in Maroondah.

2.6 Donation Bins

Current law: A person must not place a clothing bin on Council Land or Road unless they have a permit

Proposed change: The term ‘clothing bin’ has been changed to ‘donation bin’ to reflect that other materials are accepted. Donation Bins often attract illegal dumping of goods and become unsightly.

While many donation bins are operated by legitimate charities or commercial companies, others are operated by companies which place bins without permission and do not clean up abandoned goods from around the bins. The addition of these clauses will allow better regulation of donation bins and ensure they do not become unsightly.

2.7 Shopping Trolleys

Current law: Conditions relating to the use of shopping trolleys is limited to the Ringwood Activity Centre.

Proposed change: Conditions now apply across the entire municipality. The revised clauses are designed to reduce the amount of shopping trolleys that leave retail premises and to reduce the burden and cost on Council of impounding and holding abandoned shopping trolleys. A person must return their shopping trolley to an area designated for collection. Council officers can impound trolleys left in a public place.

In addition, retailers with more than 25 shopping trolleys must ensure:

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- trolleys are fitted with a coin deposit/locking system;
- no trolleys are left on Council land and roadsides;
- they have a regular collection system in place; and
- they collect impounded trolleys when notified.

2.8 Items on Council Land or roads

Current law: Items are not allowed on council land and roads without a permit.

Proposed change: To reflect community feedback regarding obstructions on footpaths and other Council land, this clause has been strengthened to include the words *across*, and *over* Council land, and also reflects the safety or danger aspects to pedestrians and vehicles

2.9 Bulk Waste and Shipping Containers

Current Law: Bulk rubbish containers are not allowed on council land and roads without a permit.

Proposed change: the clause also refers to shipping containers on private land, and other temporary structures on Council land and roads, the definition has been amended for clarity.

2.10 Graffiti

To reflect community feedback a new clause has been inserted.

Proposed change: A person must not write, draw, tag, paint, scribble, scratch or spray on a wall or other surface in a public place.

2.15 Busking and Street Performances

Proposed change: The clause now includes spruiking as an activity requiring a permit.

PART 3 – ENVIRONMENTAL AMENITY & SAFETY

This section reflects community feedback which supports continuing to protect our environmental amenity as well as the general amenity of the municipality.

3.2 Condition of Land

3.3 Condition of Buildings

Current law: Both the condition of land and vacant buildings are addressed in the current Local Law.

Proposed change:

The wording of both clauses has been simplified and amended to ensure property owners are aware of their responsibilities in maintaining their properties. This also includes adding definitions for dangerous, derelict and unsightly. Unoccupied/abandoned properties are more likely to be damaged or vandalised, and can become a risk for potential fire. The addition of a requirement to secure an unoccupied property will help prevent these properties from impacting the amenity and safety of their neighbours. The definition of dangerous land has also been amended to not include vegetation on private land.

3.10 Storage of Vehicles

Current law: Storage of vehicles (such as boats, trailers and caravans) is addressed in the current local law.

Proposed law: The definition has been amended for clarity for any vehicles, excluding motor vehicles, as well as an amended subclause to regulate abandoned vehicles.

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3.12 Vehicles in a public place

Current law: Unregistered vehicles and vehicles that are derelict and unable to move on their own accord are not permitted.

Proposed change: The wording of this clause has been simplified, made less conditional and allows Authorised Officers to remove vehicles that affect the nearby amenity. Vehicles that are unregistered, immobile, damaged, dilapidated or causing an unreasonable obstruction or danger are covered.

3.14 Storage of Heavy or Long Vehicles

Current law: A clause relating to the keeping of heavy trucks on residential property was not included in the current Local Law No. 11, as it was considered that the Planning Scheme may be better suited to permit and enforce heavy vehicles on private land.

Proposed change: This clause is included and will help ensure that heavy vehicles on residential properties do not cause amenity issues through noise, fumes, or damage to assets. Heavy vehicle and long vehicle users will require approval from Council if they wish to park their vehicle on privately owned residential land. Both heavy and long vehicles are included as new definitions.

3.16 Camping on Land

Current law: Restricted camping on private land, other than reasonable use and no longer than 28 days provided there is satisfactory access to toilet facilities and proper disposal of waste

Proposed change: Also reflecting community feedback this clause has been revised to focus on instances where camping on private land may become a nuisance, rather than the length of time it takes place. The definition of camping has also been revised to exclude more permanent residential accommodation through temporary structures on private land.

PART 4 - ASSET PROTECTION & BUILDING SITE MANAGEMENT

This part has been revised to better enable compliance for the safety and amenity of the municipality by controlling activities associated with building or construction work and to protect public assets from damage during building works.

The amendment, and addition of these clauses makes expectations clear to builders. The proposed changes allow Council to ensure that building sites do not create safety or amenity issues for surrounding properties and pedestrians, and reduces the likelihood of damaging Council Assets during the building process.

4.1 Obtain Asset Protection Permit

Current law: Outlined the procedure for obtaining an Asset Protection Permit.

Proposed changes: The proposed clause is simplified to only require that an Asset Protection Permit be obtained at least 7 days prior to building works commencing. Some of the procedural matters will be outlined in Part 8 – Permits, outlined as permit conditions or addressed in a proposed procedures manual that will be publicly available.

4.2 Containment of Building Sites

Proposed changes: This clause is very similar in the current Local Law, with the addition of a subclause requiring that the site fencing is contained entirely within the building site and does not obstruct Council

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Land. The addition has been introduced to minimise the occurrence of temporary fencing ‘feet’ obstructing a footpath causing a trip hazard.

4.5 Building Site Waste

Proposed changes: The proposed clause is largely the same as the current Local Law with the addition of a general nuisance subclause.

4.7 Noise from Building Works

Current Law: A person must not carry out Building Works or allow Building Works to be carried out on any land between the hours 8.00 pm and 7.00 am on weekdays, or between the hours of 8.00 pm and 9.00 am on any Saturday, Sunday, or all Public Holidays.

Proposed changes: The proposed clauses reduce the hours that building works can be carried out to better reflect community expectations around noise from construction in order to preserve general amenity.

Work will not be allowed, without a permit, outside the hours of -

- a) 7am - 6pm Monday to Friday;
- b) 9am - 3pm Saturday; and
- c) not at all on Sundays, and Public Holidays.

There is also an addition of an exemption for inaudible work not causing a nuisance.

4.8 Management of Easements

Current Law: The current Local Law does not regulate easements.

Proposed changes: A new clause is proposed to capture all building works on land that may detrimentally affect the function of an easement, or drain or pit within the easement. Currently, the Building Regulations only require report and consent to build over an easement to be obtained from Council where a building permit is required, hence works such as earthworks or constructing a retaining wall under 1.0m in height are exempt yet still have potential to damage Council drainage assets.

4.10 Occupying Road or Council Land for Building Works

Current Law: The current Local Law does not address occupation.

Proposed changes: Addition of a new clause to allow construction zone permits to be issued and enforced under the local law, and to address the increase in safety issues arising from the unauthorised occupation of the road reserve or Council Land for building works.

4.11 Vehicle Crossings

The proposed clause is largely the same as the existing clause 25 with the addition of a clause to allow an Authorised Officer to reasonably direct the construction, repair, reconstruction or removal of a redundant vehicle crossing, whether permanent or temporary, and the reinstatement of kerb, channel or footpath.

PART 5 - WASTE MANAGEMENT

Disposing of waste and hardwaste was highlighted as a very important issue during the community consultation process. It's also integral to ensuring the health, amenity and safety of our community is maintained through the correct placement and removal of waste within properly maintained waste bins.

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Under the *Circular Economy (Waste Reduction and Recycling) Act 2021*, Council will be rolling out new services over the next 5-10 years including a Food Organics Garden Organics (FOGO) service in May 2023, and a glass service in 2026/27, also reflecting a changing nature of waste collection streams.

The waste management section of the Local Law has therefore been condensed and simplified to now refer to a document that is incorporated by reference - *Waste Services Guideline 2023*. Educational information on what is required for residents and businesses to meet Council's requirements is also kept up to date on Council's website.

PART 6 - ANIMALS

Council recognises the value of our animals, the overall benefit they give to our health and wellbeing, the importance of animal welfare and the protection of the community and the local environment from nuisances caused by animals.

6.4 Control of dogs and cats

Current Law: This is currently not addressed under the existing Local Law.

Proposed Changes: While the *Domestic Animals Act 1994* (DAA) provides legislation to deal with dog attacks and rushes, Council has had a number of incidences where injuries have been sustained by a dog that is not a result of aggression, or which may not meet the threshold under the DAA of a serious or non-serious injury. This may occur as a result of a dog jumping and causing scratches or where a person is pushed over or knocked off a bike causing more serious injury. This is particularly relevant to children and the elderly. Further to this the DAA also has no provision to deal with injuries caused by a cat.

6.5 Animals at large

Current: This is currently not addressed under the existing Local Law.

Proposed: A new clause has been proposed to better regulate when animals (other than those covered in the DAA) are allowed to wander from where they are usually kept.

PART 7 - LIQUOR AND SMOKE FREE AREAS

7.2 Consumption of liquor in a Public Place

7.3 Behaviour at or near Licensed Premises

Current law: the current local law clauses are limited to not being able to consume Liquor, without a permit; or to possess open containers of liquor.

Proposed change: In consultation with Victoria Police, these clauses have been revised to be more succinct and to enhance the ability of Authorised Officers to confiscate open containers of alcohol. Behaviours around licensed premises has been amended by simplifying the language used. The clause continues to allow reasonable consumption of liquor in Council reserves (such as picnics etc) so long as no nuisance is being caused.

PART 9 – ENFORCEMENT

9.2 Penalties

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The full list of penalty amounts are found in the Local Law. The inclusion of higher penalty amount for companies, owner's corporations and body corporates acknowledges that lower penalty units may not provide a significant deterrent for organisations.

All penalties have been intentionally scaled to reflect -

- a) the impact of the offence on the community based on feedback, and
- b) the safety risk, and prevalence of the offence.

The penalty amounts stated in the proposed Local Law are designed as a deterrent and are considered appropriate. The amounts have been benchmarked against neighbouring and like Councils for similar offences.

PART 7 – ADMINISTRATION

This part of the draft Community Local Law provides guidance on how the Local Law is administered. The intent remains unchanged however this part has been significantly condensed to use simple, plain English.

PART 8 – ENFORCEMENT

Breaches to the Local Law may result with enforcement action having to be undertaken.

This part of the draft Local Law provides guidance on how enforcement will be undertaken. The intent remains unchanged however this part has been significantly condensed to use simple, plain English.

9.1 Exercise of discretion

Proposed Changes: Authorised officers have always had the power to exercise discretion in their approach to compliance. However to respond to community feedback and to use simple, plain English the following clause has been added to allow an officer the ability to expressly consider any extenuating circumstances raised. This could include persons who are vulnerable because they are:

- (a) experiencing homelessness;
- (b) socially, culturally or economically marginalised; or
- (c) experiencing chronic physical or mental health issues.

9.4 Operator Onus Offence

Proposed Changes: The operator onus provisions under Part 6AA of the *Road Safety Act 1986* apply to any offence provision of this Local Law which involves the use of vehicles. That is, if the operator of a vehicle that is used in the commission of an offence under this Local Law, cannot be found or it is impracticable to charge the operator with an offence, the registered owner of that vehicle, is guilty of that offence. The registered owner of that vehicle will then be provided with the opportunity to nominate the driver of the vehicle or to provide any other reasonable explanation which may exonerate the owner, such as if the vehicle had been sold or stolen.

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