



## 1. Introduction

Local Laws help to protect community health, safety and amenity throughout the municipality. They are created in consultation with the community in order to meaningfully solve local issues and meet emerging needs. The following information is provided to the community in respect of Council's proposed Community Local Law 2025.

Local Laws are a form of local regulation that enables councils to make legislative controls which reflect the different circumstances of each municipality. The Local Law-making power attributed to councils comes from Section 71 (1) of the *Local Government Act 2020 (LGA)*.

To facilitate the administration and regulation of certain activities and protect the amenity of the local community, Council is proposing to replace the *Community Local Law 2015* which is due to expire on 8 September 2025, with the *Community Local Law 2025*. The new Local Law is proposed to take effect on that same date.

## 2. Background

Council's current Local Law commenced operation on 8 September 2015. Under the *LGA*, Local Laws cease to have effect after 10 years, which means Council needs to adopt a new local law in order to continue to protect community safety and amenity and to respond to the changing needs of the community. The proposed Local Law will operate throughout the municipal district.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law. It is also intended to assist any person who may choose to engage with Council as part of our community engagement process and to aid in understanding the changes that are proposed. The Community Impact Statement has been prepared to assist any member of the public who may wish to make a submission to Council, during the public consultation process required under the *LGA*. A copy of the proposed Local Law is provided with this Community Impact Statement.

A community engagement process will commence in January 2025. Once that process is finalised, the proposed Local Law will be further reviewed, before being presented to Council for adoption.

The community engagement process period will run from 20 January 2025 to 16 March 2025.

## 3. Overview of the Proposed Local Law

Objectives of the proposed Local Law :

- a) to provide a safe and healthy environment in which the residents of the **municipal district** can enjoy a quality of life and use of **municipal property** that meets the general expectations of the community
- b) to regulate, control and prohibit activities which may be dangerous, unsafe or detrimental to the quality of life in the **municipal district**
- c) to regulate, control and prohibit behaviour which may be a nuisance or detrimental to health and safety or adverse to the enjoyment of **municipal property**



- d) to facilitate the provision of public services, health and other community services, property services, recreational and cultural services, sale of goods and other services in a way which enhances the environment and quality of life in the **municipal district**
- e) to control nuisances and **noise**, odour and smoke emissions, and other discharges to the environment which may adversely affect the enjoyment of life in the **municipal district** or the health, safety and welfare of **persons** in the **municipal district**; and
- f) to provide uniform and fair administration of the Local Law.

In addition to the requirements of section 74 of the **LGA**, the requirements of the state government's 'Guidelines for Local Laws Manual' (the Guidelines), have also been followed as per the requirements of section 87 of the **LGA**. The key aims of the guidelines are:

- to improve accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity, and transparency
- to reinforce that regulation should be viewed as a last resort, because it imposes a burden of compliance on the community and a burden of enforcement on the council
- to reinforce that Local Laws should not allow discretions on the part of those administering or enforcing them without clear guidelines being in place
- to ensure when Local Laws rely on other documents, such as Council policies, as performance measures, those documents are accessible to the public; and
- to have councils produce a *Local Law Community Impact Statement* for all new local laws.

Council has taken these aims into account in the drafting of the proposed Local Law.

Anyone who makes a written submission can request to be heard in support of their submission at the Council Meeting which considers the making of the proposed Local Law, details of which will be provided.

#### 4. Comments on the proposed Local Law

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| Measuring Success    | <p>Council will measure the success of the proposed Local Law by:</p> <ul style="list-style-type: none"> <li>• recording levels of compliance and non-compliance</li> <li>• comparing levels of compliance with previous data collected by Council</li> <li>• monitoring complaints and customer service requests</li> <li>• assessing the resources required to administer and enforce the Local Law and</li> <li>• considering any responses received from the community as part of Council's community satisfaction survey ratings.</li> </ul> |
| Existing Legislation | <p>The LGA gives Councils broad powers to make local laws with respect to any act, matter or thing in which the Council has a function or power under legislation.</p>                                                                                                                                                                                                                                                                                                                                                                            |



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|                                           | The Local Law will supplement existing state legislation administered and enforced by Council whilst addressing matters within Council's functions and powers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>State Legislation more appropriate</b> | There are some circumstances where Council has considered that state legislation is more appropriate to deal with particular issues. In those cases, clauses have been removed in favour of relying on state legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Overlap of existing legislation</b>    | Council believes the provisions of the proposed Local Law supplement state legislation without duplicating, overlapping or creating any inconsistency.<br>The proposed Local Law is subordinate to state legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Overlap of Planning Scheme</b>         | Council does not consider any provision of the proposed Local Law overlaps, duplicates or creates an inconsistency with the Planning Scheme.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Risk Assessment</b>                    | Council has adopted a risk management approach to the review and development of the proposed Local Law, particularly with respect to the introduction of new clauses.<br>Council does not consider that there are any risks associated with the proposed Local Law.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Legislative approach adopted</b>       | <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"> <li>• reasonable penalties</li> <li>• minimum possible number of provisions which create offences</li> <li>• where possible, provision for permits rather than prohibition of activities</li> <li>• reasonable and appropriate permit conditions which will be relied on if a decision is made to issue a permit under the Local Law and</li> <li>• reasonable enforcement procedures including provision for the giving of warnings where appropriate and the exercise of the officers' discretion.</li> </ul> <p>Council has ensured that the proposed Local Law is expressed plainly and unambiguously; 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 LGA.</p> <p>In addition, the proposed Local Law:</p> <ul style="list-style-type: none"> <li>• 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 Act</li> <li>• 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</li> </ul> |



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|                                              | <ul style="list-style-type: none"> <li>• does not unduly trespass on rights and liberties of the person previously established by law</li> <li>• does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions</li> <li>• is not inconsistent with principles of natural justice and fairness and</li> <li>• does not duplicate, overlap or conflict with other statutory rules or legislation.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Penalties</b>                             | <p>The penalties applying to all existing and new clauses were considered and reviewed.</p> <p>The penalty amounts stated in the proposed Local Law are designed as a deterrent and are 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>Council is satisfied that the included penalties are consistent in nature and amount with like and neighbouring municipalities.</p> <p>Due to changes in legislation, a penalty unit under the proposed Local Law is set by the State Treasurer and reviewed annually. Prior to these legislation changes, the value of a Local Laws penalty unit was fixed at \$100.00.</p> <p>As at 1 July 2024, a penalty unit in Victoria is valued at \$197.59. Council has factored the increased value of a penalty into its review of the penalties to be applied in the proposed Local Law.</p> |
| <b>Permits</b>                               | <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Fees</b>                                  | <p>Council will review and set any fees that are payable under the Local Law, as part of the annual 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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Performance standards or prescription</b> | <p>Where appropriate and possible, Council has adopted a performance-based approach to Local Law provisions.</p> <p>All enforcement will be undertaken having regard to and seeking to encourage the exercise of appropriate officer discretion.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |



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| <b>Comparison with neighbouring councils</b>        | <p>In drafting the proposed Local Law, Council examined the local laws of the following neighbouring councils:</p> <ul style="list-style-type: none"> <li>• City of Brimbank</li> <li>• Wyndham City Council</li> <li>• Maribyrnong City Council</li> </ul> <p>The purpose of conducting this exercise was to assess the similarities and differences between the councils so as to ensure a best practice approach was adopted in the drafting of Council's proposed Local Law. Council also examined local laws from several other Victorian councils who have recently renewed their local laws, to assist in identifying current best practice.</p> |
| <b>Charter of Human Rights and Responsibilities</b> | <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 that there are no inconsistencies.</p>                                                                                                  |
| <b>Community Engagement</b>                         | <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>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

## 5. Main changes

All the provisions of Council's current local laws have been reviewed. As a result, compared to the current local law, the number of clauses in the proposed Local Law has been reduced from **142** to **108**. The number of activities requiring a permit has also been reduced from **42** to **32**. The number of penalty clauses has also been reduced from **178** to **76**.

These changes have been made by improving the clarity (simplicity) and accessibility (user-friendliness) of the proposed Local Law, and by simply redefining some activities found under the current local laws.

Some examples of these changes are set out below.

### Existing Clause

Community Local Law 2015 – **Clause 36** – Fire hazards.

Community Local Law 2015 – **Clause 43** Advertising, bill posting and junk mail.

### Legislation in Place

Fire Rescue Act 1958 - s 87 deals with this matter.

*Environment Protection Act 2017* – the local law duplicates the same obligations placed on people, as are contained in this legislation.



Community Local Law 2015 – **Clause 62** – Fencing to be erected and maintained to prevent livestock trespassing.

*Impounding of Livestock Act 1994* – s 16A creates the same obligations.

Community Local Law 2015 – **Clause 78** - Noise from residential premises

*Environment Protection Act 2017 s 167(2) and Regulation 114 of Environment Protection Regulations 2021* now cover these matters.

Community Local Law 2015 – **Part 14** – regulation of beach waters

The Marine Safety and Marine Salvage Acts of 2010 deal with most of the matters in this part. The part has therefore been deleted, with the exception of two clauses related to glass on beaches and the launching/retrieval of boats and personal watercraft, from Council's foreshore reserves and beaches.

## 6. Conclusion

In accordance with Council's Community Engagement process, interested parties will be offered a range of opportunities to engage with Council in relation to the proposed Local Law before Council makes any decisions about its adoption. Further information can be found on Council's engagement platform Participate (see below).

The proposed Local Law will commence on 8 September 2025. Prior to its commencement a notice of its making will be published in the Victoria Government Gazette as well as on Council's website and social media channels. Unless it is revoked earlier, it will expire 10 years after date of commencement.

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

If you would like further information to understand the changes that are proposed or wish to make a submission on the proposed Local Law, please visit our website: [Projects | Participate Hobsons Bay](#)