



# LOCAL LAW COMMUNITY IMPACT STATEMENT

## Community Amenity Local Law 2023

Council provides the following information to the community in respect of the proposed Local Law.

### 1. INTRODUCTION

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 *Community Safety and Environment Local law 2013* which is due to expire on 30 November 2023 and replace it with the *Community Amenity Local Law 2023*.

Council's current Local Law was adopted by Council on 1 December 2013.

Under the *Local Government Act 2020 (LGA)*, 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.

This Local Law 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 which is required to be undertaken under the LGA.

A copy of Council's Community Engagement Policy can be accessed on Council's website.

The proposed Local Law is being made under section 74 of the LGA and will operate throughout Council's municipal district.

A copy of the proposed Local Law is provided with this Community Impact Statement.

## 2. OVERVIEW OF THE PROPOSED LOCAL LAW

The objectives of the proposed Local Law are to:

- (a) *provide for the peace, order and good government of the municipal district of Moira Shire Council;*
- (b) *provide for those matters which require regulation under the Local Law;*
- (c) *provide for the administration of Council powers and functions, including the prohibition or regulation of activities so that no detriment is caused to the amenity of the neighbourhood;*
- (d) *provide for the care, protection and management of Council land, including reserves, and to protect the safety and amenity of persons attending those places;*
- (e) *regulate and control the consumption and possession of liquor;*
- (f) *protect Council assets;*
- (g) *regulate the droving, grazing and movement of livestock throughout the municipal district, minimising the damage to road surfaces, formations, drainage, native vegetation and surrounding areas arising from livestock and to alert other road users to the presence of livestock on roads in the interests of road safety; and*
- (h) *enhance public safety and community amenity.*

In order to inform the preparation of the proposed Local Law, Council undertook an internal consultation process with all Council departments involved in the administration and enforcement of Local Laws. The primary purpose of this exercise was to understand how the proposed Local Law could meaningfully address municipal changes, regulatory concerns and emerging issues.

Throughout March 2023, 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.

Once that feedback was received, a number of groups sessions were conducted with the project team and Council's lawyers to assist with the re-drafting process.

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.

### 3. COMMENTS ON THE PROPOSED LOCAL LAW

<b>Measuring Success</b>	<p>Council will measure the success of the Local Law by -</p> <ul style="list-style-type: none"> <li>• monitoring levels of compliance;</li> <li>• comparing levels of compliance with the previous monitoring; and</li> <li>• assessing the resources required to administer and enforce the Local Law.</li> </ul> <p>Council reports annually to the community on the operation of the Local Law through its Annual Report.</p>
<b>Existing Legislation</b>	<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>
<b>State Legislation</b>	<p>In circumstances where State legislation regulates an activity or provides an enforcement pathway, the Local Law does not address 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>
<b>Overlap of existing legislation</b>	<p>Council does not consider that any provision of the proposed Local Law overlaps with existing State legislation.</p>
<b>Overlap of Planning Scheme</b>	<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>
<b>Risk Assessment</b>	<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>
<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</li> </ul>

	<p>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> <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>. 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> <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 justice and fairness; and</li> <li>• does not duplicate, overlap or conflict with other statutory rules or legislation.</li> </ul>
<p><b>Penalties</b></p>	<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>
<p><b>Permits</b></p>	<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 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>
<b>Performance standards or prescription</b>	<p>Where appropriate and possible, Council has adopted a performance-based approach to Local Law provisions.</p>
<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>• Benalla Rural City Council</li> <li>• Rural City of Wangaratta</li> <li>• City of Wodonga</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.</p>
<b>Charter of Human Rights &amp; 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 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>

#### 4. MAIN CHANGES TO THE PROPOSED LOCAL LAW

The following table provides a summary of the proposed substantive amendments to the *Community Amenity Local Law 2023*.

PART 1	INTRODUCTION	
	Title [New]	<p>The title of the Local Law has been amended from “<i>Community Safety and Environment Local Law 2013</i>” to “<i>Community Amenity Local Law 2023</i>.”</p> <p>The use of the term “<i>Community Amenity</i>” modernises the existing title and captures the main objectives of the Local Law.</p>
1.1	Objectives	Updated to include – (d) to provide for the care, protection and management of Council land, including reserves;
1.2	Power to make this Local Law	Updated to refer to current legislation.
1.3	Period of Operation	<p>Heading amended to refer to “Commencement and Revocation”</p> <p>New clause 1.3(B) inserted to provide a savings clause.</p>
1.6	Definitions	“Act” updated to reference <i>The Local Government Act 2020</i>
		“Asset protection permit” has been deleted as Council no longer imposes this permit regime or requirement.
		<p>“Camp” the definition has been simplified and now reads:</p> <p><i>“means to sleep in or occupy a caravan, tent, annexe, sleeping bag, vehicle or other temporary structure, including a prefabricated holiday unit.”</i></p>
		“Camping area” legislative references updated.
		“Council land” definition expanded to include any buildings or structures on that land.
		<p>“Corporation” – this definition has been included in light of the introduction of clause 10.4 which extends liability to officers of corporations where a corporation commits an offence against the Local Law.</p> <p>The definition states:  <i>“Corporation includes any body corporate, whether formed or incorporated within or outside the State of Victoria and any incorporated association within the meaning of the Associations Incorporation Reform Act 2012”</i></p>

		“Effective control” definition deleted as it is only referenced once and the ordinary meaning should be applied.
		“Person” definition amended to include ‘a natural person and a body corporate.’
		“Planning Scheme” inserted a new definition of Planning Scheme to mean the Moira Planning Scheme. This avoids unnecessary repetition throughout the document.
		“Recreation vehicle” updated to remove reference to the definition of recreation vehicle in the <i>Transport (Compliance and Miscellaneous) Act 1983</i> as the definition has been repealed. The same definition that was used in that Act has now been inserted.
		“Security bond” has been deleted as Council no longer imposes this requirement.
		“Velocipede” deleted as being an antiquated and irrelevant term and replaced with the term “Wheeled recreation device.”
		“Waste” legislative references have been updated.
		“Water” has been deleted on the basis that the phrase adopts its ordinary meaning.
		“Wind blown waste” definition deleted on the basis that the phrase adopts its ordinary meaning.
1.7 and 1.8	No heading	Both clauses relocated to clause 1.4 ‘Application’
<b>PART 2</b>	<b>AMENITY, HEALTH &amp; SAFETY OF THE MUNICIPAL DISTRICT</b>	
2.6	Burning of offensive materials	The wording in that clause which states –  <i>“Unless in accordance with a licence issued by the Environment Protection Authority or a permit issued by Council”</i> has been deleted on the basis that Council would not permit the burning of offensive materials.
2.7	Dust	This clause has been deleted following advice received from Council’s Environmental Health Team which advised that dust can be regulated via a condition within a planning permit, with a Construction Site Management Plan or for all other scenarios, dust can be managed under the new <i>Environment Protection Act 2017</i> , under the new General Environmental Duty section.
2.11	Noise	The heading of this section has been replaced with the words “Noise from Spruiking, Entertaining and Public Performances.”

2.11(b)	Noise	This clause has been deleted on the basis that unreasonable noise is regulated under the <i>Environment Protection Act 2017</i> .
2.13	Behaviour	Heading amended to read "Conduct in public places."
2.13	Behaviour	The clause has been expanded to include Council land. This makes it clear that such conduct provisions also apply to Council reserves.
2.13	Behaviour	Deleted clause 2.13(b) which provided behaviour examples.
2.14	Recreation vehicles	Amended clause 2.14(b) at Council's request to include reference to "when being used by children."
2.14	Recreation vehicles	Deleted clause 2.14(c) as being a duplication of clause 2.14(a)
<b>PART 3</b>	<b>COUNCIL LAND</b>	
3.3	Works on Council land	Deleted clause 3.3(a)(vi) which made it an offence to 'remove anything' on the basis that this could technically extend to the removal of a flower from a reserve. In any event, substantive removals can be dealt with as an 'interference' under that clause.
3.4	Access from public place	The heading of this clause has been amended to reflect the intention of the clause which is to restrict access.  This clause has also been amended to only apply to Council land, by removing references to public places.
3.5	Storage of private property on roads	This clause has been expanded to require a person to obtain a permit if intending to store <u>unregistered</u> vehicles on a road.
3.7	Use of Reserves <b>[New]</b>	Clause 12 of Council's former <i>Recreation Reserves Local Law 2009</i> has been inserted at Council's request. The clause provides the following:  <b>3.7 Use of Reserves</b> <i>A person must not, in a reserve:</i> <i>(a) act contrary to the instruction indicated on any sign,</i> <i>(b) bring any animal other than a dog into or allow an animal under that person's control to remain in the reserve during an organised event or other activity being conducted pursuant to a permit;</i> <i>(c) drive, park or leave standing any vehicle:</i> <i>(i) on any footpath; or</i>



		<p>(ii) <i>on any road, access way or parking area contrary to any sign erected by Council;</i></p> <p>(d) <i>erect any building, tent or any other structure or occupy or use any building, tent or other structure or camp within a reserve;</i></p> <p>(e) <i>move or interfere with any sign, notice board, equipment, seat, table, gate, post, fence, facility, building or structure;</i></p> <p>(f) <i>engage in any game or sport likely to cause an interference;</i></p> <p>(g) <i>climb upon any portion of any building, improvement, embellishments, tree, hedge, pole post, mast or other structure;</i></p> <p>(h) <i>interfere with or interrupt any authorised entertainment or activity;</i></p> <p>(i) <i>take, cut, damage, displace, deface or interfere with any timber, tree, shrub, plant, wildflower or other vegetation;</i></p> <p>(j) <i>light or maintain a fire other than in a properly constructed fireplace provided by Council; and</i></p> <p>(k) <i>leave any fire unextinguished.</i></p>
3.8	Restriction on entry into Reserves <b>[New]</b>	<p>Clause 11 of Council's former <i>Recreation Reserves Local Law 2009</i> has been inserted at Council's request. The clause provides the following:</p> <p><b>3.8 Restriction on entry into Reserves</b>  <i>The Council and Authorised Officers may prohibit or restrict a person from entering, accessing or using a reserve if the person:</i></p> <p>(a) <i>is in possession of alcohol outside of the hours permitted under the Local Law;</i></p> <p>(b) <i>is in possession of glass bottles, glass containers or glass utensils; or</i></p> <p>(c) <i>poses a risk to public safety.</i></p>
4.5	Distribution of handbills	This clause has been amended to allow for the distribution of materials at a designated polling venue as managed by the relevant electoral commission.
4.6	Processions, demonstrations and use of public address systems	This clause has been expanded to clarify that the 'permit' required under this clause is a Temporary Road Closure Permit, issued by Council.

<b>PART 5</b>	<b>BUILDING SITES</b>	
5.6	Asset Protection Permits	This clause has been deleted as Council no longer requires a person to pay for and obtain an Asset Protection Permit prior to the commencement of building work. The Local Law retains the requirement that an owner, builder, appointed agent or person undertaking building work notify Council in writing at least 7 days before the commencement of building work advising of any existing damage caused to Council assets.
5.7	Security Bonds	This clause has been deleted as the requirement to provide a security bond was included as a condition of an asset protection permit which have now been removed.
<b>PART 6</b>	<b>KEEPING OF ANIMALS</b>	
6.1	Animals, birds and poultry	Clause 6.1(c) has been deleted on the basis that a nuisance may be substantiated by only a single complainant.
6.2	Dogs	Area reduced from 8 to 5 hectares in accordance with Council's instructions.
<b>PART 8</b>	<b>LIVESTOCK</b>	
8.8	Movement of livestock	Clause 8.8(g) has been deleted to remove reference to compliance with Guidelines prepared by the Roads Corporation on the basis that no such Guidelines are in existence.
8.14(b)	Warning Signs	Clauses 8.14(b) and (c) has also been deleted because they references compliance with the Guidelines which do not exist.

<b>PART 9</b>	<b>CONSUMPTION AND POSSESSION OF LIQUOR</b>	
<b>9.1</b>	Consumption of Liquor	<p>A new clause 9.1 (Consumption of Liquor) has been introduced which replaces existing clauses 9.1, 9.2 and 9.3.</p> <p>The proposed clause, provides the following:</p> <p>(a) A person must not, without a permit, consume, carry or have in their control, an open container of liquor, on a road or on Council land unless:</p> <p>(i) the Council has granted an exemption in writing either to an individual, a class of persons or to an event organiser permitting the consumption of liquor;</p> <p>(ii) they are attending a premises which is licensed under the <i>Liquor Control Reform Act 1998</i>; or</p> <p>(iii) they are consuming, carrying or have in their control an open container of liquor within a reserve between the hours of 8am and 10pm.</p> <p>(b) The Council may designate an area of the municipality to be a liquor prohibited area for a specified period as evidenced by the display of signage.</p> <p>(c) A designation made by Council under sub-clause 9.1(b) must be advertised on Council's website and in a newspaper generally circulating in the area prior to the commencement of the relevant period.</p>
<b>PART 10</b>	<b>GENERAL</b>	
10.1	Evidentiary provisions	Clause deleted as being unnecessary.
10.4 (a)	Offences <b>[New]</b>	Inserted a new omni-bus clause to capture all categories of offending under the Local Law.
10.4(b)	Offences <b>[New]</b>	Inserted a new clause to extend liability to officers of corporations where a corporation commits an offence against the Local Law.
10.5(b)	Compliance with Notices	This clause has been deleted as being a duplication of s.117 of the <i>Local Government Act 2020</i>
10.9	Other offences	This clause has been deleted as it has been included within the general offences clause at 10.4.
10.10(d)	Infringement notices	This clause has been deleted as cost recovery for an amount incurred by Council when rectifying an offence, if not paid by agreement, would be pursued by Council under s.117 of the <i>Local Government Act 2020</i> .
10.11	How is payment to be made?	This clause deleted as it relates to administrative information
10.12	Do you have to accept the notice?	This clause deleted as it relates to administrative information

	Common Seal and Certification	Clause deleted as being unnecessary, noting that the adoption of the Local Law will evidenced by a Council resolution (which may or may not require the affixing of a common seal,) and with respect to certification, a Local Law is now required under the <i>Local Government Act 2020</i> to be certified by a legal practitioner.
Schedules 1 - 8	Township Maps	The maps have been deleted as they are no longer referenced within the consumption of liquor clause.
	<b>OTHER GENERAL CHANGES</b>	
		Removal of gendered pronouns (he/she) (his/her)
		Simplification of language and terms used.
		Collation of infringement penalties within Schedule 1