

Community Impact Statement

Cardinia Shire Council Proposed Community Local Law 2024

PART A – General comments

Introduction

Council is proposing to make a new Local Law (called the Cardinia Shire Council Community Local Law 2024) to replace the existing Local Law No. 17 (Environment, Amenity and Asset Protection Local Law) adopted in 2015 (the **current Local Law**). The existing Local Law was amended in 2016 and again in 2022.

The proposed new Local Law (**proposed Local Law**) will supersede and replace the current Local Law. The proposed Local Law, to be known as the Cardinia Shire Council Community Local Law 2024 will commence on the 1st July 2024 (subject to its adoption by resolution of Council) or otherwise on the day following notice of its making being published in the Victoria Government Gazette and, unless it is revoked earlier, and will expire 10 years after commencement.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council during the public consultation process required under the Local Government Act 2020.

Background

Local Laws are a form of local regulation that enable councils to make legislative controls that reflect the different circumstances of each municipality. Victorian Councils have the broad power to make local laws under Section 71(1) of the Local Government Act 2020.

Local laws automatically ‘sunset’ (are revoked) ten years after their making, unless revoked sooner. The current local law sunsets on 14th June 2025. On commencement of the proposed local law, the current local law will be revoked.

The proposed local law will operate throughout Council’s municipal district. The Local Law makes provision for Council to make further Guidelines, which impact how the Local Law is applied.

The current Local Law regulates various activities and behaviour throughout the municipality and has been updated to reflect changes in legislation and current issues within the municipality. To date, extensive internal consultation has been undertaken including benchmarking, review of customer complaints and current challenges; assessment of enforcement actions, staff workshops, Councillor briefings and discussions with Victoria Police regarding some specific Local Laws that they enforce.

The statutory consultation period will run for a minimum of 28 days, commencing not earlier than 20th February 2024. The consultation will be featured on the Creating Cardinia website.

The proposed Local Law has been reviewed by Council’s lawyers who confirm that it complies with all regulatory requirements. A copy of the proposed Local Law is provided with this Community Impact Statement, as well as a table that highlights the main changes that are proposed.

Objectives

The objectives of the proposed Local Law are set out in Clause 2 of the draft of the Local Law.

2. Objectives

2. The principal objectives of this Local Law are to:

- 2.1. provide for the peace order and good government of the Cardinia Shire Council, and
- 2.2. promote a physical and social environment free from hazards to health, in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community, and
- 2.3. prevent and suppress nuisances which may adversely affect the enjoyment of life or the health, safety and welfare of persons, and
- 2.4. prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the quality of life and the environment, and
- 2.5. prohibit, regulate and control access to and behaviour in Municipal Places; and
- 2.6. prohibit, regulate and control the use of Municipal Recreation Centres, Municipal Buildings, and Municipal Reserves, and
- 2.7. protect public assets vested in Council from damage, accelerated deterioration or abuse during the building process or at other times, and
- 2.8. provide a physical environment which aims to minimize hazards to health and safety of persons attending building sites and those adjacent, opposite or passing building sites, and
- 2.9. prohibit, regulate and control the presence of and disposal of builders' refuse, rubbish and soil on and from building sites within the municipal district, particularly litter and stormwater pollution to protect receiving waterways and bays, and
- 2.10. define the standards to which persons engaged in building work should adhere, and
- 2.11. educate and induce persons involved in building work to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community, and
- 2.12. provide for the consistent application and enforcement of this Local Law.

PART B – Comments on proposed Local Law overall

Measures of success of proposed Local Law	<p>The overall success of the proposed local law will be best measured by the extent to which it achieves the desired outcomes and leads to:</p> <ol style="list-style-type: none"> 1. An improvement in Council's service ratings relating to liveability and community amenity; 2. A reduction in the number of complaints about amenity being received annually; 3. An improvement in Council's service ratings relating to the handling or complaints about amenity; 4. A reduction in the number of local law breaches detected annually; 5. A reduction in the number of items impounded by Authorised Officers. 6. A reduction in the number of abandoned shopping trolleys found in streets, parks and the foreshore. 7. An increase in the number of permits for use of public spaces that support the strategic directions of Council.
Existing legislation that might be used instead	<p>In preparing the proposed local law, care was taken to ensure that no clauses are included that relate to matters addressed under existing State or Federal legislation.</p>
Overlap of existing legislation	<p>It is believed that the proposed local law supplements State legislation without duplicating, overlapping or creating any inconsistencies. In two instances, clauses have been removed from the Local Law, as it is considered preferable to achieve the same outcome by using an alternative statutory power.</p>
Overlap of planning scheme	<p>The proposed Local Law does not overlap with the Cardinia Shire Planning Scheme.</p>
Risk assessment	<p>Council does not believe there are any significant risks associated with the proposed local law. In reaching this view, Council considered the absence of such a local law and the lack of controls Council would have over its assets and the environment, as a consequence</p>
Legislative approach adopted	<p>The proposed Local Law seeks to place the minimum imposition on the community whilst managing known risks. This is evidenced by:</p> <ul style="list-style-type: none"> • Reasonable penalties (infringement penalties have been benchmarked with neighbouring and like Councils); • Minimum possible new offences created. <p>Council has, where appropriate and possible, adopted a performance based approach to the proposed local law, which focuses on the outcomes sought rather than the methodology to be</p>

	<p>applied.</p> <p>All provisions of the proposed Local Law are open to public scrutiny and comment.</p>
Restriction of competition	The proposed local law has been reviewed against National Competition Policy principles and is considered to be consistent with these.
Penalties	<p>All offences created under the proposed Local Law attract a maximum penalty of 20 penalty units with varying infringement penalties prescribed in Schedule 1 to the proposed Local Law</p> <p>Council has compared the general level of penalties provided for in the proposed Local Law with the Local Laws of other like and neighbouring councils. Council is satisfied that penalties are similar in nature and amount to like and neighbouring councils and are sufficient to act as a deterrent for most offences while also reflecting the seriousness of those offences.</p>
Permits	The proposed local law makes provision for the issue of permits. The proposed local law requires permits to be obtained for various activities. For some permits, Council may (or may in the future) apply conditions, apply fees or create guidelines for the issuing of permits.
Fees	The proposed local law provides for Council to determine fees and charges that will apply at any time. These fees and charges are set through the Council's Council Plan and Budget processes and are subject to separate community consultation. In the future, the methodology for fee calculation may be outlined in a Guideline document.
Comparison with neighbouring and like Councils	<p>In drafting the proposed Local Law, Council examined Local Laws from a number of like and neighbouring councils to assess similarities and differences and ensure a reasonable degree of consistency in content, approach and penalties. This review included current local laws of:</p> <p>Banyule, Bayside, Brimbank, Casey, City of Melbourne, Greater Dandenong, Frankston, Glen Eira, Kingston, Knox, Manningham, Maroondah, Monash, Stonnington, Whitehorse and City of Yarra.</p>
Charter of Human Rights	<p>The Charter of Human Rights and Responsibilities Act 2006 contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. The implications of the proposed local law have been assessed by Council's external legal adviser as compatible with the requirements of the Charter.</p> <p>To the extent that any provisions engage human rights, the limitations imposed are demonstrably justifiable, such that no incompatibility arises.</p>
Consultation	## Prior to any future adoption of the proposed Local Law, these

	comments will be updated. ##
Submissions	## Prior to any future adoption of the proposed Local Law, these comments will be updated. ##

Part C – Comments on specific parts or provisions of the proposed Local Law

All provisions of the current Local Law have been reviewed. The proposed Local Law 2024 proposes the following:

- amendments to existing definitions
- insertion of new definitions
- amendments to existing clauses;
- insertion of new clauses;
- penalty amounts amended following the introduction of the Local Government Act 2020; and
- ‘administration only’ changes

Changes described as having a “moderate” or “significant impact” are discussed in further detail.

A full table of changes is can be found in the “Community Local Law 2024 Clause comparison table – table of changes”.

Clause number	Clause heading	Impact of change	Description of change, and the reason for the proposed change
12	Access to municipal places	Moderate	The existing Local Law currently gives Council a range of powers in respect of public places, including the capacity to determine hours of access, conditions and cost or access, and conditions of hire to access. The proposed Local Law clarifies the obligation to comply with conditions or restrictions when accessing a municipal place.
18	Shopping trolleys	Moderate	Council wishes to reduce the period of time that abandoned trolleys remain in public places. The existing Local Law includes a requirement on businesses that provide shopping trolleys (typically

			supermarkets) to take steps to minimize the likelihood that trolleys will be removed from the vicinity and abandoned, usually in public places. In addition to the current requirement to provide a locking system, the new clause creates a positive obligation on the owner of the trolley to collect the trolley, after being notified that a trolley of theirs has been dumped.
21	Hoon events	Significant	<p>Victoria Police have advised Councils of issues arising from anti-social gatherings involving hoon driving. Specifically, the issue is of 'pop up' events, where large groups gather to watch hoon driving. The drivers themselves can be penalized under the <i>Road Safety Road Rules</i>, but the introduced clause is intended to provide Police with powers that deter those who have gathered to watch, and is modelled on clauses operating in other municipalities.</p> <p>It is not expected that Council officers will enforce this law, but enforced by Victoria Police officers authorised under the Local Law.</p> <p>The primary objective of this clause is to deter the conduct, by allowing Victoria Police to efficiently interrupt behavior, when it occurs in the Municipal district.</p>
23	Signs, goods and furniture	Significant	<p>This clause has been amended with the intention of reducing the use of pointer boards in the municipality, by limiting the circumstances in which they can be used.</p> <p>Under the current approach, Real estate agents may obtain a permit to display pointer boards to real estate events, and the permits provide broad permission to place boards. Some agents do not obtain permits prior to displaying signs, and from time to time, real estate agents report that pointer boards are being used unnecessarily. By doing this, agents obtain commercial advantage, using the boards as a broad service advertising, rather than to provide directional signage to inspection or auction events.</p>

			<p>Under the revised clause (and supporting policy), Council would no longer issue permits for pointer boards, but agents would be free to display pointer boards:</p> <ul style="list-style-type: none"> - Immediately in front of “open for inspection” or “auction” events, and - At the nearest intersection only, and - Only for the period of the event, and 60 minutes before and after the event. <p>The objective of this proposed clause and policy is to limit the use of pointer boards within the municipality, and to reduce the requirement on real estate agents to obtain and maintain permits. It will, in turn, increase the effectiveness and efficiency of enforcement activities.</p>
Part 4	Domestic waste collection, and recycleable materials	Significant	<p>The existing clauses relating to waste services were last drafted in 2005, and require change in order to reflect current waste service requirements.</p> <p>The current Local Law contains a number of clauses about the use of domestic waste and recycling collection. It also contains clauses relating to the use of hard waste collections.</p> <p>Since the current Local Law were first written, the waste service has expanded to include “green waste”. Similarly, the hard waste service has changed from a scheduled service, to a bookable service, and as such the previous clauses that specified when waste could be placed in the road reserve require modification.</p> <p>As such, the clauses have been amended, and provide for a more flexible application in the future, with appropriately drafted Council guidelines.</p>

			<p>Along with other clauses, the revised clauses require residents to only use their waste service for types of waste approved for the service. E-waste is an example of dangerous items that are not allowed to be placed in waste bins, but which are frequently disposed of and can cause bin and truck fires. Similarly, sometimes land owners deliberately place contaminating, non-recyclable materials in the recycling bin service, which diminishes the overall effectiveness of re-using materials. The capacity to issue infringements would be used sparingly, and would be directed at serious examples where dangerous or contaminating items are placed in bins which result in:</p> <ul style="list-style-type: none"> • serious contamination of the waste stream, or • dangerous situations, or • repeated infractions. <p>Council officers will continue to “educate first”, and it is not expected that minor errors in waste separation would be penalized in the first instance.</p> <p>The primary objective of these clauses is to ensure that the waste service can operate effectively and efficiently, and for the clauses to deter wrongdoing where education has failed to achieve voluntary compliance.</p>
34	Trade waste hoppers	Moderate	<p>Trade waste hoppers are large bins used for commercial premises. When they are not maintained they can become a haven for vermin, cause odour issues, and attract anti-social behaviour, such as dumping. Emptying bins can also be a common source of nuisance noise complaints, especially when it occurs early in the morning or in the evening.</p> <p>A new clause has been proposed that makes explicit the requirement for a commercial entity to have</p>

			adequate, nuisance-free commercial waste removal, that is in good operating order, and placed in a safe location. The clause also establishes times when collections are prohibited, to minimize the impact of noise on near-by residents.
35	Screening of bins or trade waste hoppers	Moderate	A new clause has been proposed that allows Council to direct that bins and trade waste be screened from public view where the waste is unsightly, dangerous or detrimental to the amenity of the neighborhood, when directed by a Council officer.
44 - 50	<i>Animal-related clauses</i>	Moderate	In the current Local Law 17, animal-related clauses are drafted to apply to specific species of animal. It is the experience of Council officers that many species of animal can be the source of amenity complaints. As such, the clauses have been generalized to apply to animals. For example, previous clauses that required adequate fencing for male livestock, have been consolidate to apply more generally to all animals, irrespective of species.
55	Noisy vehicles	Significant	<p>A new clause has been proposed that addresses noisy vehicle use that causes an "unreasonable noise" in residential areas. Such "unreasonable noise" may include prolonged and unnecessary idling of heavy vehicles in early morning or late at night, or the excessive revving of engines while undertaking vehicle servicing. The prohibition would apply even when the vehicle is on a road or nature strip.</p> <p>Without the proposed clause, a vehicle owner may be prohibited from making vehicle noise on <i>private property</i> (under general noise nuisance provisions) but would not necessarily be liable if the noise does not <i>emanate from their land</i> (for example, if the vehicle is parked in the street or on a nature strip). The proposed clause closes this loophole.</p>

56	Audible intruder alarms	Significant	<p>Alarms that sound unnecessarily, or are not deactivated after a reasonable period, can cause a significant noise nuisance – however, modern alarms are capable of being configured so as to ensure that the alarm does not continue to sound after 5 minutes, and not to be re-triggered unnecessarily.</p> <p>A new clause has been proposed that prohibits audible alarms to operate persistently within turning off. While it may be said that existing general noise nuisance laws already cover this situation, the ease with which technical solutions can be harnessed to prevent this form of nuisance, mean that it is considered appropriate to have a dedicated provision directed at alarms.</p>
59	Unsightly land and graffiti	Significant	<p>The current Local Law requires the owner and occupier of land to not allow the land to be “unsightly”. In light of Council experience, the proposed Local Law clause has been re-drafted to make it clear that “unsightliness” includes allowing a building to become dilapidated or ruin, by neglect, age, poor maintenance etc.</p> <p>Council is also aware that buildings and land can often be left while the owner waits for commercial development – in such circumstances, the local law penalties that apply are sometimes not sufficient to deter owners from remedying the situation.</p> <p>In light of this, the clause has been redrafted, and the penalty provisions have been expanded to include penalties of up to \$380 each day after a finding of guilt, if they continue to allow the unsightliness to persist.</p>
70 & 71	Asset Protection Permits and Identifying damage to	Significant	<p>Most local laws have clauses that are designed to protect Council assets (such as footpaths, curbs, nature strips etc) during building work. In a growth area such as Cardinia, this is particularly important, as roads, footpaths and nature strips are often initially created during development, and there is intense construction work as blocks are released.</p>

	Council assets		<p>Under the current Local Law, builders are required to obtain an asset protection permit, and are required to provide Council with a bond, prior to the construction work. They are required to advise Council of pre-existing damage and advise Council upon completion of the work.</p> <p>Under the proposed Local Law, these clauses have been substantially re-written to provide for the more efficient and effective protection of Council assets. The clauses make the requirements of builders more strict, by strengthening the obligation to document the state of assets prior to the build, and also to notify Council swiftly when the build is completed. Both of these amendments will improve the capacity of Council and the builders to identify damage for which they are (and are not) responsible.</p> <p>The infringement penalties for failing to obtain an Asset Protection Permit are proposed to increase significantly, to 8 penalty units (approx. \$1530) to adequately deter builders who refuse to obtain permits. The current infringement penalty (\$200) is lower than the cost of obtaining a permit, and substantially lower than the relevant bonds. As such, we have extensively benchmarked infringement penalties for this offence across the South Eastern metro area, and propose a significant increase to the infringement amount, to 8 penalty units (approx \$1530).</p>
Part 7	Requirements of Building sites	Significant	<p>The current local law provides for infringements to be issued for a variety of offences directed at ensuring that building sites are managed in a way that minimizes refuse, stormwater contamination, and other amenity impacts. Under the current Local Law, infringement penalties are set at \$200, and it is the experience of Compliance Services Officers that many larger building companies are responsible for repeated offences. A review of similar penalties across the South East metro area shows that the penalties at Cardinia are generally low, and we therefore propose to increase the infringement amount to 5 penalty units per offence (approx. \$960).</p>

			<p>The objective of this change is to reduce the of building site amenity offences, by deterring the building companies from committing the offences, and to encourage them to take a more active role in ensuring trades behave correctly on site.</p>
79	Building site work hours	Significant	<p>Building and construction noise is a common source of amenity complaint, particularly in connection with noise. The EPA construction noise provisions explicitly respond to this, however other sources of noise (that perhaps do not meet the definition of construction work) can also arise. For example, deliveries to building sites, vehicle movements, persons present on site etc.</p> <p>As such, the proposed Local Law contains a provision that applies the time-based prohibition more broadly than just construction noise, and is modelled on provisions operating in other municipalities.</p>
Clause 45 of current Local Law 17	Dogs must be on leash	<p>Removed from Proposed Local Law</p> <p>Minor, technical only</p>	<p>The current Local Law contains a clause that requires all dogs to be on leash when they are off the premises where they are usually kept. Council has also made an order, pursuant to the power conferred in Section 26 of the Domestic Animals Act, to make allowance for several designated “off leash parks” in the municipality.</p> <p>With the re-drafting of the Local Law, it is proposed to removed the clauses from the Local Law, and re-instate them in a new Domestic Animals Act Council order. This order will replicate the requirement to leash dogs when they are outside of the property where they are kept, but allow for off leash parks (subject to the advertised conditions of using the parks).</p> <p>This is a technical change only – it is not intended to introduce any new obligations of dog owners that do not currently exist.</p>

Clause 46 of current Local Law 17	Cats to be desexed	Removed from proposed Local Law Minor, technical only	<p>Cardinia Shire Council has had long-standing policy that cats must be desexed in order to be registered and kept in the municipality. There are a number of exceptions to this, such as when the owner can satisfy that they are a member of an applicable organization etc.</p> <p>This policy is given effect by a Council resolution made pursuant to Section 10A of the Domestic Animals Act. Clause 46 of the current Local Law 17 duplicates this requirement. Technically, this duplication is unnecessary, and it is preferable to remove the clause from the new Local Law.</p> <p>It should be noted that the current Local Law specifies that cats must be desexed once they are 6 months old. This was because many vets used to recommend that cats not be desexed until this age. However, the RSPCA and peak veterinary bodies now support the practice of desexing cats as early as 3 months, which co-incides with the age at which a cat must be registered.</p> <p>Therefore, it is proposed to remove the unnecessary clause from the Local Law, and for Council to make a new resolution maintaining the policy of requiring cats to be desexed.</p>
-----------------------------------	--------------------	--	--