

[Local Law Community Impact Statement (LLCIS)]

Greater Shepparton City Council Local Law No. 1 – Community Living

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

1. INTRODUCTION

Council is proposing to update its Local Law No. 1 – Community Living (**current Local Law**). The current Local Law will expire on 3 July 2018.

The proposed new Local Law No. 1 – Community Living (**proposed Local Law**) will supersede and replace the current Local Law.

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 1989 (Act)*.

2. BACKGROUND

Local Laws are a form of local regulation that enables councils to make legislative controls that reflect the different circumstances of each municipality. The Local Law making power attributed to councils comes from the Act.

The current Local Law was made by Council resolution on 1 July 2008.

The current Local Law regulates various conduct and behaviour throughout the municipality.

The current Local Law is due to expire on 3 July 2018 and needs to be renewed and updated to incorporate changes in legislation and to reflect current issues within the municipality.

3. OVERVIEW OF PROPOSED LOCAL LAW

The proposed Local Law is being made under section 111(1) of the Act and will operate throughout Council's municipal district.

The proposed Local Law, to be known as the Greater Shepparton City Council Local Law No. 1 – Community Living 2018, will commence on the day following notice of its making being published in the Victoria Government Gazette and, unless it is revoked earlier, will expire 10 years after commencement.

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

The objectives of the proposed Local Law remain the same as those of the current Local Law, with the exception of a new sub-clause (i). The objectives provide for:

- 1.1 providing for the peace, order and good government of the municipal district of the Greater Shepparton City Council;

- 1.2 providing for those matters which require a Local Law under the Local Government Act 1989, and any other Act;
- 1.3 providing for the administration of Council powers and functions, and for the issue of permits and infringement notices;
- 1.4 prohibiting, regulating and controlling activities, physical works including construction, events, practices or behaviour in the municipal district so that no detriment is caused to the amenity of the neighbourhood, nor nuisance to a person, nor detrimental effect to the environment or property;
- 1.5 regulate and control the consumption of liquor and possession of liquor other than in a sealed container;
- 1.6 protecting assets vested in Council;
- 1.7 regulating the droving, grazing and movement of livestock throughout the municipal district, minimise 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;
- 1.8 enhancing public safety and community amenity; and
- 1.9 supporting the Council to undertake its powers and duties in relation to drains and drainage of land.

Proposed changes brought about by the proposed Local Law are not substantial and do not impact on the general purpose and purport of the current Local Law. The opportunity has been taken to improve clarity and remove clauses which might encroach on the field covered by other legislation, such as the *Road Safety Road Rules 2017* and the *Environment Protection Act 1970*.

Under section 223 of the Act, Council is required to give public notice of the proposed Local Law and invite submissions for a period of at least 28 days.

The statutory consultation period will run from 23 March to 27 April 2018, subject to Council's endorsement at the Ordinary Council Meeting to be held on 20 March 2018.

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

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 attached (**Attachment 1**) to this Community Impact Statement.

4. MAIN CHANGES TO THE LOCAL LAW

All provisions of the current Local Law have been reviewed. Substantive changes are outlined in the following paragraphs. When reference is made to a clause being amended or otherwise modified, reference is being made to the substantive change to a clause in the current Local Law brought about by the proposed Local Law.¹

¹ Strictly speaking the current Local Law is being revoked rather than amended. For the sake of convenience, clauses in the current Local Law are being referenced as if they are changing rather than being replaced.

Definitions

Various definitions have been added, amended and removed, including the addition of the following definitions:

- 'advertising sign';
- 'animal';
- 'busk';
- 'Code of Practice';
- 'domestic bird';
- 'event'
- 'large bird and/or noisy bird';
- 'reserve'; and
- 'unsightly'.

Fires in Open Air

Clause 2.5(b) of the current Local Law (now clause 2.3(b) of the proposed Local Law) has been amended to remove the exceptions. A person is now prohibited from lighting and maintaining any campfire or barbeque using solid fuel in *any* public place without a permit.

Chimneys and Dust

Clauses 2.7 and 2.8 of the current Local Law has been deleted to avoid any encroachment onto the field covered by the *Environment Protection Act 1970* and associated Regulations and Policies.

Fire to be Extinguished

A new clause 2.5 has been inserted into the proposed Local Law requiring a person to extinguish any fire that is lit contrary to clauses 2.3 and 2.4 of the proposed Local Law when directed by an authorised person to do so.

Recreational Vehicles

The reference to 'velocipede' in clause 2.13 of the current Local Law (now clause 2.9 of the proposed Local Law) has been replaced with a reference to a 'recreational vehicle'. This is intended to use simpler language and the clause otherwise remains unchanged.

Clause 2.15 of the current Local Law has been deleted to avoid duplication of clause 2.13 and encroachment onto the field covered by the *Road Safety Act 1986*, *Road Safety Road Rules 2017* and associated Regulations and Codes.

Interference with Drains or Drainage Works

A new clause 2.13 has been inserted into the proposed Local Law making it an offence for a person to damage, destroy or otherwise interfere with any drain or drainage works without a permit.

Shipping Containers

A new clause 3.2 has been inserted into the proposed Local Law making it an offence for a person to use or otherwise place a shipping container on any land, including Council land and roads, without a permit.

Load Limits on Roads

Clause 3.2 of the current Local Law has been deleted to avoid encroachment onto the field covered by the *Road Safety Act 1986*, *Road Safety Road Rules 2017* and associated Regulations and Codes.

Naturestrips

A new clause 3.4 has been inserted into the proposed Local Law which imposes obligations on owners and occupiers of property adjacent to naturestrips not to plant or install anything on them without a permit and to maintain them generally. Offences are created for failing to comply with these obligations.

Trading of Goods or Services

Clause 4.2 of the current Local Law has been amended to create an offence for displaying a vehicle on any road or Council land without a permit.

Processions, Demonstrations and Use of Public Address

Clause 4.6 of the current Local Law has been deleted as it is addressed by clause 10.1 of the proposed Local Law.

Shopping Trolleys

Clause 4.7 of the current Local Law (now clause 4.6 of the proposed Local Law) has been amended to include a requirement that the owner of a shopping trolley marks it with details sufficient to identify the owner.

Cats

Clause 6.3 of the current Local Law has been deleted as it is now addressed by the 'Table of Animal Types and Numbers' in clause 6.1 of the proposed Local Law.

Bees

A new clause 6.3 has been inserted into the proposed Local Law making it an offence for a person to keep bees without a permit and other than in accordance with the Apiary Code of Practice. This replicates and expands upon clause 2.11 in the current Local Law.

Livestock

Clauses 8.2 and 8.3 of the current Local Law have been deleted to avoid encroaching on the field covered by the *Impounding of Livestock Act 1994* and because Council no longer considers them necessary for enforcement purposes.

Clauses 8.5 and 8.6 of the current Local Law have also been deleted and such matters will, in future, be provided for in an internal policy or procedure.

Clause 8.10 of the current Local Law has been deleted as it is adequately addressed in clause 6.10 of the proposed Local Law.

Maude Street Mall

Clause 9.1 of the current Local Law regulating activities in Maude Street Mall has been deleted because it can be adequately managed under remaining clauses of the proposed Local Law relating to Council land and roads.

Signs

A new clause 8.1 has been inserted into the proposed Local Law which provides for Council to erect signs in or near any public place and makes it an offence for a person to act contrary to any direction contained in such a sign.

Consumption of Liquor

Clauses 10.2, 10.3 and 10.5 of the current Local Law have been deleted because they unnecessarily duplicate Council's general enforcement powers and functions under the proposed Local Law and the Act.

Clause 10.1 of the current Local Law (now clause 9.1 of the proposed Local Law) has been amended to remove any reference to areas in which the possession or consumption of liquor is prohibited and now provides for Council to declare areas in which the possession or consumption of liquor from time to time by resolution.

Events

A new clause 10.1 has been inserted into the proposed Local Law which makes it an offence for a person to conduct an 'event' on any Council land, road or reserve without a permit.

Owner Onus

A new clause 11.7 has been inserted into the proposed Local Law which provides that the 'owner onus' applies in respect of offences against the proposed Local Law concerning vehicles – ie the owner of the vehicle commits the offence.

Penalties

Individual penalties for offences against specific clauses have been removed from the proposed Local Law and replaced by the new clause 11.9 which imposes a maximum penalty of 20 penalty units in respect of every breach of the proposed Local Law.

Considerations for Granting Permits

All clauses of the current Local Law which set out the matters to be considered when determining whether to grant a permit (see, for example, clauses 2.17(b) and 3.1(b)) have been deleted and such matters will, in future, be provided for in an internal policy or procedure.

5. EVALUATION OF LOCAL LAW

In accordance with Guidelines issued by the Minister for Local Government in relation to the making of local laws, Council has conducted an evaluation of the proposed Local Law. The evaluation is outlined in the following Table.

Issue	Evaluation
Objectives	<p>The objectives of the proposed Local Law are to:</p> <ul style="list-style-type: none"> • provide for the peace, order and good government of the municipal district of the Greater Shepparton City Council; • provide for those matters which require a Local Law under the Local Government Act 1989, and any other Act; • provide for the administration of Council powers and functions, and for the issue of permits and infringement notices; • prohibit, regulate and control activities, physical works including construction, events, practices or behaviour in the municipal district so that no detriment is caused to the amenity of the neighbourhood, nor nuisance to a person, nor detrimental effect to the environment or property; • regulate and control the consumption of liquor and possession of liquor other than in a sealed container; • protect assets vested in Council; • regulate the droving, grazing and movement of livestock throughout the municipal district, minimise 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; • enhance public safety and community amenity; and • support the Council to undertake its powers and duties in relation to drains and drainage of land.
Legislative Framework	<p>The Act gives councils broad powers to make local laws with respect to any function or power of the council.</p> <p>The proposed Local Law addresses matters within Council's broad functions and powers.</p>
State legislation more appropriate	<p>State legislation compels Council to make Local Laws to address issues within its municipality. In developing the proposed Local Law, Council has not sought to address any issues which it feels are best addressed at the State or Federal level.</p>
Overlap with existing legislation	<p>Existing State legislation deals with the following issues which are also dealt with in some general circumstances by the proposed Local Law:</p> <ul style="list-style-type: none"> • Noise – <i>Environment Protection Act 1970</i>; and • Public Places, Roads and Council Land – Works and/or Usage – <i>Road Management Act 2004</i>. <p>Council is satisfied that the provisions of the proposed Local Law supplement the State legislation without duplicating, overlapping or creating any inconsistency.</p>

Issue	Evaluation
Planning Scheme	Council does not believe that any clause of the proposed Local Law overlaps with, duplicates or creates any inconsistency with the Shepparton Planning Scheme.
Legislative Approach	<p>The proposed Local Law adopts a medium impact regulatory approach, in as much as it prescribes with a level of detail the conduct and behaviour of members of the public within Council's municipality.</p> <p>This approach is considered appropriate to:</p> <ul style="list-style-type: none"> • facilitate the orderly and efficient access to and use of Council land, roads and public places; and • provide for the protection of Council assets under specified circumstances. <p>The proposed amendments to the current Local Law have been incorporated into a new, consolidated Community Living Local Law to provide a greater level of clarity and transparency. All provisions of the proposed Local Law are open to public scrutiny and comment.</p>
Performance Standards or Prescriptive Details	Council has, where appropriate and possible, adopted a performance-based approach to the proposed Local Law.
Risk Assessment	<p>No formal risk assessment has been undertaken.</p> <p>Council does not consider that there are any risks associated with the proposed Local Law.</p>
Measures of Success	<p>Council will measure the success of the Local Law as follows:</p> <ul style="list-style-type: none"> • recording levels of compliance/non-compliance using inspection data; • review of enforcement actions taken, including official warnings, notices to comply, infringements and direct prosecutions; and • volume of complaints.
Permits and Fees	<p>The proposed Local Law makes provision for:</p> <ul style="list-style-type: none"> • the issue of permits – the proposed Local Law requires permits to be obtained for various activities; and • Council to prescribe fees from time to time by resolution – it is expected that fees will be set annually as part of Council's Budget process.

Issue	Evaluation
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.</p> <p>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>
Restriction of competition	<p>Council has conducted a review of the proposed Local Law in accordance with National Competition Principles and believes that, because of the nature and content of the proposed Local Law, and particularly the ability to obtain permits to conduct activities that would otherwise be prohibited, there is no restriction of competition.</p>
Comparison with other 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.</p>
Charter of Human Rights	<p>The <i>Charter of Human Rights and Responsibilities Act 2006</i> (Charter) contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. Councils must not knowingly be in breach of these rights and must always consider them when they create laws, develop policies and deliver services.</p> <p>The proposed Local Law has been reviewed for compatibility with the Charter and is considered to be compatible with the Charter.</p>
Community Consultation	<p>The proposed Local Law has been reviewed in consultation with Councillors, members of Council staff and Council's legal advisers.</p> <p>A community consultation process will be conducted in accordance with sections 119(2) and 223 of the Act.</p> <p>This will require Council to give public notice of its intention to make the proposed Local Law and provide members of the public with an opportunity to make a written submission to Council in relation to the proposed Local Law. Council will consider submissions received before making a final decision on the proposed Local Law.</p> <p>A person who makes a written submission is entitled to request (in the submission) to be heard by Council in support of his/her submission. When Council makes a final decision on the proposed Local Law, it must notify in writing each submitter of the decision and the reasons for the decision.</p> <p>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.</p>

6. ATTACHMENTS

- **Attachment 1** - Proposed Local Law

DRAFT