

# STONNINGTON CITY COUNCIL

## Proposed General Local Law 2018 (No. 1) (Amendment)

### Community Impact Statement

#### PART A

##### Background

Local laws are regulatory instruments which enable local government councils to fulfil their functions and exercise their powers under State and Federal legislation within their respective municipalities. The *Local Government Act 2020* (Vic) (**Act**) grants the power to Councils 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 that or any other Act.

Stonnington City Council currently has one local law, the *City of Stonnington General Local Law 2018* (No. 1).

The General Local Law implements measures to protect the safety and amenity of the municipality and regulate the use of Council land.

Pursuant to the Act, local laws are revoked 10 years after the day they come into operation. The current General Local Law will be revoked on 2028. The Minister for Local Government Victoria has released the Guidelines for Local Laws Manual, which aims to assist councils in achieving better practice when making, reviewing, and amending local laws.

The Act includes matters with which a local law must ensure compliance. A local law must, importantly, not duplicate or be inconsistent with any other Act or regulation, or the planning scheme of the municipality, and becomes inoperative to the extent of any duplication or inconsistency. It must also be directed towards its objectives and not go beyond them and adopt the means of achieving those objects which appear likely to involve the least burden or the greatest advantage on the community.

##### Objectives of the Local Law

The objectives of the proposed General Local Law are:

- (a) amend the Stonnington City Council General Local Law (No.1);
- (b) the peace, order and good government of the Municipal District;
- (c) the administration of Council powers and functions;
- (d) a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations;
- (e) the safe and equitable use and enjoyment of Public Places;
- (f) the protection and enhancement of the amenity and environment of the Municipal District;
- (g) the fair and reasonable use and enjoyment of private land;

- (h) the prohibition, regulation and control of activities, events, practices or behaviour in places so that no detriment is caused to the amenity of the neighbourhood nor nuisance caused to a person nor damage caused to a person's property; and
- (i) the prohibition, regulation and control of activities which may affect urban character and local amenity.

## Process

The proposed General Local Law has been drafted following a comprehensive review and analysis of the existing General Local Law. Consultations have been undertaken with internal stakeholders across various areas of Council. Councillors have also provided input and recommendations in creating this draft.

Council has also undertaken Community and Industry engagement with a diverse range of stakeholders, including residents via a select survey group, and targeted industry stakeholders potentially affected by proposed changes, this additional consultation process has enabled participants and stakeholders an additional opportunity to provide input regarding their specific issues and concerns in respect of the proposed significant changes. Feedback provided through the Community and Industry Engagement has been reviewed. Where it was considered that a submission point was valid and did not substantially alter the general purport of the relevant section of the Local Law, further amendments have occurred.

Following Council's approval of the local law for consultation purposes, submissions will be sought from residents, Council Advisory Groups, neighbouring Councils, key external stakeholders and government bodies, including Victoria Police, the Metropolitan Fire Brigade, and the Victorian Commission for Gambling and Liquor Regulation.

The consultation period will run from ***Monday 4 September 2023 to Sunday 8 October 2023***. During this time, the community will be able to obtain information, provide feedback and make submissions, which will then be analysed and considered by Council in its preparation of a final draft.

This Community Impact Statement will also be available and is intended to improve clarity and transparency for those affected by the current Local Laws and the proposed Local Law.

The final General Local Law document will be presented to Council prior to the end of December 2023 for adoption and gazettal. Following gazettal, the current General Local Law will be amended to include the amendments within this proposed local law.

## Application and summary of the Local Law

Local laws apply throughout the whole of the municipal district. The proposed General Local Law will provide the following:

- Repeal Part 4 of the Local Law
- Amend the definition section by removing redundant definitions and update changes to office holder titles

- Amend the application of the Local Law by clarifying persons who are entitled to assistance animals
- Substitute clause 116 with a new clause
- Substitute clause 117 with a new clause
- Insert a new clause in clause 121
- Substitute clause 122 with a new clause
- Amend and substitute a new clause in clause 123
- Insert a new clause in clause 134
- Amend clause 158
- Amend clause 159
- Substitute clause 163 with a new clause
- Substitute clause 174 with a new clause
- General amendments
- Consequential amendments

## PART B

### Measures of success

Council will measure the success of the proposed General Local Law by:

- (a) monitoring the level of compliance and comparing levels with those of previous years;
- (b) measuring efficiency in administering the Local Law and success in responding to issues;
- (c) assessing the resources required to administer and enforce the Local Law;
- (d) assessing and measuring the adequacy of the Local Law in achieving the objectives.

Such performance measuring is undertaken and monitored to inform the operation and effectiveness of the Local Law.

Additional information and criteria will be incorporated to assess the operation of the proposed General Local Law.

### Existing legislation and the Stonnington Planning Scheme

Council has examined the provisions of the Act and the proposed General Local Law does not infringe on the local law requirements of the Act.

### State legislation more appropriate

State legislation empowers Council to make Local Laws to address issues within the municipality. Council is of the view that each of the issues identified in relation to the proposed General Local Law are issues over which Council is delegated responsibility and has functions and powers.

### Risk assessment

Council has adopted a risk management approach to the review and development of the proposed Local Law. This approach has involved consideration of the following:

- (a) impacts on community safety and amenity;
- (b) existing laws; and
- (c) long term solutions.

### Legislative approach adopted

Council maintains the position that its local laws should not impose itself unduly or unreasonably on the community.

Council has ensured that the proposed Local Law:

- (a) is expressed plainly and unambiguously, consistently with the language of the enabling Act and in accordance with modern standards of drafting applying in the State of Victoria;
- (b) does not exceed the powers conferred by the Act;
- (c) is not inconsistent with the principles, objectives or intent of the enabling Act;
- (d) does not make unusual or unexpected use of the powers conferred by the Act under which the Local Law is made;
- (e) does not unduly trespass on rights and liberties of the person previously established by law;
- (f) does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions;
- (g) does not purport to shift the onus of proof to a person accused of an offence; and
- (h) does not unduly restrict competition.

### Comparison with neighbouring and like Councils

In drafting the proposed Local Law, Council examined the Local Laws of its neighbouring and comparable municipalities being Port Phillip City Council, Yarra City Council and Bayside City Council. This allowed Council to assess the similarities and differences between like municipalities and ensure that a best-practice approach was taken in the drafting process.

The following sets out the main issues arising from this Local Law:

Assistance animals	The Local Law exceeds in relation to the acknowledgement of assistance animals and the exemptions for them at State level.
Nature Strip Control	All Councils maintain control of the nature strip. Bayside and Port Phillip have nature strip planting provided it meets specified guidelines.
Tree controls	All Councils maintain control over Council assets including trees and prohibit the interference with Council trees.
Behaviour	All Councils maintain control over the behaviour of persons within municipal places and reserves. All local laws, although worded differently have the same effect.
Obstructing vehicles	This is a power contained in the Local Government Act 1989. Bayside includes part of the power however, other Councils have not included the powers within their local laws.
Building hours	All Councils regulate building activity and building hours concluding at 6 pm.

### Charter of Human Rights

The *Charter of Human Rights and Responsibilities Act 2006* applies to all subordinate legislation, including local laws. Council is satisfied that the proposed Local Law is compatible with the Charter and consistent with the principles of justice and fairness.

### Submissions

A submission process will be conducted in accordance with the legislative requirements under the Act. All submissions will be considered by Council

## PART C - ASSESSMENT OF SIGNIFICANT CHANGES

### 1. Repeal of Part 4

Clause(s), section or part	Part 4
Issue local law intends to address	The introduction of the Local Government Act 2020, resulted in the change to the regulation of council meetings where local laws are no longer utilised for the regulation of council meetings. What follows is that Part 4 of the Local Law is redundant.
Action / change	The repeal of Part 4.
Perceived benefits	Compliance with the Local Government Act 2020. Improved readability of the Local Law and removal of redundant legislation.
Perceived disadvantages	Nil
Applicable strategic objectives	The Stonnington Council Plan

### 2. Repeal of redundant definitions

Clause(s), section or part	Clause 5
Issue local law intends to address	The repeal of Part 4 results in definitions which are no longer required.
Action / change	Repeal redundant definitions.
Perceived benefits	Improved readability and removal of redundant legislation.
Perceived disadvantages	Nil.
Applicable strategic objectives	The Stonnington Council Plan

### 3. Application of the local law

Clause(s), section or part	Clause 6(2)(a)
Issue local law intends to address	The clause focused on persons who were blind and deaf. However, a broader class of person is entitled to use assistance animals and the Local Law did not reflect this.

<b>Action change</b>	/	Broaden the class of persons who have the benefit of the use of assistance animals and allow assistance animals to be exempt where appropriate from the Local Law.
<b>Perceived benefits</b>		Compliance with State legislation. Recognition of those persons who use assistance animals.
<b>Perceived disadvantages</b>		Nil.
<b>Applicable strategic objectives</b>		The Stonnington Council Plan The Stonnington Community Liveability

#### 4. Tree Protections

Clause(s), section or part	Clause 113
Issue local law intends to address	The existing clause was considered to be too narrow and did not allow officers to protect council asset trees.
Action change	/ Amend the clause to include a contravention if a person otherwise interferes with a Council tree.
Perceived benefits	Greater protection for Council assets.
Perceived disadvantages	The expansion of the clause will require officers to use discretion as 'interference' is broad and will capture more people who inadvertently 'interfere' with a Council tree.
Applicable strategic objectives	The Stonnington Council Plan The Stonnington Community Liveability The Environment

#### 5. Assistance Animals

Clause(s), section or part	Definitions and cl. 116 of Part 8 – Use of Municipal Places
Issue local law intends to address	To recognise that animals other than guide dogs are utilised in the community to assist people with special needs. Currently only the term 'guide dog' is utilised in the local law.
Action change /	Replace 'guide dog' with assistance animal to reflect current terminology in accordance with the Disability Discrimination Act 1992.
Perceived benefits	To provide legislative protections for people using assistance animals in Municipal Places in accordance with the relevant legislation.
Perceived disadvantages	Public and Council staff education around use of assistance animals to negate any negative impacts.
Applicable strategic objectives	The Stonnington Council Plan 2017-2021: The Stonnington Community Liveability

## 6. Protection of trees and plants on Council land

Clause(s), section or part	Part 7 – Protection of Council Land cl.113
Issue local law intends to address	To provide for the protection of trees and plants on Council land.
Action change	/ Reword clause to ‘a person must not, without a Permit, remove, damage, kill, destroy, prune, cut, trim, or interfere with in any way, any tree or plant on Council land.
Perceived benefits	Consistency with other provisions in Local Law. The rewording provides a greater ability to deal with all eventualities relating to the protection of these important Council assets.
Perceived disadvantages	Stonnington Community lack of knowledge of the provision.
Applicable strategic objectives	The Stonnington Council Plan 2017-2021: The Stonnington Community Liveability The Environment

## 7. Municipal Places

Clause(s), section or part	Clause 117 (c)
Issue local law intends to address	The existing clause prohibited the entry of a person where that person was under the influence of alcohol or drugs.
Action change	/ Remove the sub-clause.
Perceived benefits	Takes away the focus on ‘drunkenness’. However, existing clauses still allow officers to protect the amenity and safety of the place by having a power to exclude a person due to behaviour or other safety issues.
Perceived disadvantages	Change in focus from drunk to behaviour.
Applicable strategic objectives	The Stonnington Council Plan The Stonnington Community Liveability

## 8. Municipal Places

Clause(s), section or part	Clause 117
Issue local law intends to address	Clause restricted access to male and female facilities.
Action change	/ Removal of clause to recognise gender diversity.



<b>Perceived benefits</b>	Recognition of gender diversity.
<b>Perceived disadvantages</b>	Community perception.
<b>Applicable strategic objectives</b>	The Stonnington Council Plan The Stonnington Community Liveability Gender Equality Action Plan

## 9 . Abandoned Vehicles

<b>Clause(s), section or part</b>	<b>Clause 134</b>
<b>Issue local law intends to address</b>	Intensification of residential use within the municipal district has resulted in an increase in demand for on street parking. This has resulted in difficult in relation to street cleaning and the process of maintaining, repairing and construction of roads and road infrastructure.
<b>Action change</b> /	New clause to provide for the removal of vehicles that are obstructing or are unlawfully parked.
<b>Perceived benefits</b>	Reduced costs in terms of obstructions to road maintenance crews. Enabling the carrying out of other Council functions.
<b>Perceived disadvantages</b>	Inconvenience to residents in relation to removal of parking options during street cleaning and road works.
<b>Applicable strategic objectives</b>	The Stonnington Council Plan The Stonnington Community Liveability The Economy

## 10. Building activity

<b>Clause(s), section or part</b>	<b>Clause 158</b>
<b>Issue local law intends to address</b>	The 'building activity' definition was perceived to be inadequate and the building activity hours did not prevent a commercial building from carrying out building work on a Sunday or other sensitive times.
<b>Action change</b> /	Amend the definition of 'building activity' and to tighten up the building activity hours clause.
<b>Perceived benefits</b>	Increase amenity for residents near construction sites.
<b>Perceived disadvantages</b>	Restriction on building activity hours.
<b>Applicable strategic objectives</b>	The Stonnington Council Plan The Stonnington Community Liveability