

**YARRA CITY COUNCIL**  
**PROPOSED GENERAL LOCAL LAW 2016**  
**COMMUNITY IMPACT STATEMENT**

**PART A**

***Background***

Local Laws are a form of local regulation that enables Councils legislative controls that reflect the different circumstances of each municipality. The Local Law making powers attributed to Councils comes from the *Local Government Act 1989* (the Act).

Yarra City Council currently has four such Local Laws dealing with a wide range of community, environmental and governance issues:

- Roads and Council Land Local Law No. 2 (and amendment)
- Environment Local Law No. 3
- Meeting Procedures Local Law
- Consumption of Liquor in Public Places

*Roads and Council Land Local Law No. 2* (Local Law 2) and the *Environment Local Law No. 3* (Local Law 3) came into operation on 3 July 2012 and cover the vast majority of compliance and enforcement activity undertaken by Yarra City Council. Some measures in the Local Laws regulate how Council land is used and other measures are intended to protect Council and community assets. Many laws include options for permits to be issued to allow for certain activities or works on Council land under specific circumstances.

*Why is a review to the existing Local Laws required?*

The Act gives authority for Council to make Local Laws, which are valid for 10 years. The same Local Laws are revoked 10 years after the day they come into operation. The existing Local Law 2 and 3 will expire in July 2022.

In 2015, Council officers identified a need to conduct an early review of Local Law 2 and Local Law 3 to address a number of practical issues and anomalies which required resolution before the next scheduled review in 2022. Local Laws 2 and 3 overlap in certain aspects adding a layer of complexity for enforcement by Council and compliance by the community. This review commenced in August 2015.

*How are Local Laws amended?*

The Act regulates how Council makes or amends a Local Law. A number of restrictions and limitations are applied by the Act on any Local Law made by Council, specifically Schedule 8 includes matters that must be taken into consideration, such as not making usual or unexpected use of powers and that consideration is given to principles of justice and fairness. Most importantly, a Local Law must not duplicate or be inconsistent with any other Act or regulation and becomes inoperative to the extent of any duplication or inconsistency.

Guidance about the process to review and amend Local Laws is contained in the '*Guidelines for Local Laws Manual and Resource Book*' (the Guidelines) made by the Minister for Local Government. The Guidelines elaborate on the matters in Schedule 8 of the Act when making or reviewing existing Local Laws.

Additionally, under the *Charter of Human Rights and Responsibilities Act 2006* (the Charter), Councils must ensure that a proposed local law is not incompatible with a human right or that when a decision is made, proper consideration is given to a relevant human right.

### ***Objectives and Purposes of Local Laws***

The objectives of the proposed General Local Law remain the same as that of the existing *Roads and Council Local Law No. 2* (Local Law 2) and the *Environment Local Law No. 3* (Local Law 3) which are to:

- provide for the peace, order and good government of the municipal district of Yarra City Council;
- promote a physical and social environment that is accessible inclusive and 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;
- prevent and suppress nuisances which may adversely affect the enjoyment of life within the municipal district or the health, safety and welfare of persons within the municipal district; and
- prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the quality of life and the environment of the municipal district.

### ***Process***

The proposed General Local Law has resulted from a review and analysis of the existing Local Laws 2 and 3. Although there are limited recommendations in the Act and Guidelines about the specific processes to be applied to making or reviewing local laws, there are detailed requirements regarding the matters taken into consideration throughout the process. In addition to the statutory consultation process, there is an expectation that there will be discussion and consultation with Councillors, the community and other stakeholder groups that have an interest in a proposed control under the Local Law.

The review aimed to identify any existing issues or anomalies within Council's existing Local Laws 2 and 3; consult with internal and external stakeholders to improve understanding of current issues; and finally, develop a new Local Law that incorporated relevant Council policies and reflected stakeholder concerns.

In October and November 2015, focus group sessions with Compliance staff were held. A submission portal was available for feedback from internal stakeholders. Council's Advisory

Groups and their Councillor Representatives were contacted advising of the process and seeking initial feedback.

The outcome of the review informed the development of a single Local Law – the proposed General Local Law - that seeks to provide clear and concise direction for Council Officers, residents and the wider community.

Council's Solicitors have provided extensive input throughout all stages of the review and have confirmed that the proposed General Local Law complies with all regulatory requirements.

Given the extensive and complex nature of the Council's existing Local Law 2 and 3, it was considered appropriate to seek community feedback and input on a draft rather than approach the community with topics and questions that may not be relevant or applicable. By seeking comment on a draft document, it is expected that consultation can be more targeted and feedback more useful to ensuring the final version adequately reflects stakeholder concerns. Following Council's endorsement for public consultation to commence, the proposed General Local Law will be publically exhibited and public submissions on the draft will be requested. The statutory consultation process under section 223 of the Act will occur after Council has approved the Local Law "in principle" for consultation purposes.

The proposed consultation period will run from Monday 9 May 2016 to Friday 10 June 2016. During this time, the community can obtain information, provide feedback and make submissions in a variety of ways.

Council's website will provide links to an engagement HQ which will be the landing page for all information relevant to this review. The community will be able to review the proposed General Local Law and the Community Impact Statement, associated timelines, complete an online survey, and make a submission or register to attend a public information session. Three public information sessions will be held during the consultation period at different venues across the municipality and will be facilitated by Council's Solicitors. Hard copies of all information and submission forms will be available at Council's Town Halls, libraries or mailed on request.

Submissions on the draft will be sought from Council's Advisory Groups, neighbouring Councils, key external stakeholders and government bodies such as Victoria Police, Metropolitan Fire Brigade, Vic Track, Liquor License Commission, Parks Vic and Australia Post.

Following the consultation period, all submissions and feedback received will be analysed and if appropriate, incorporated into a final draft. Council remains responsible within the parameters established by the Act, for determining the final form of the Local Law and the policy decisions that underpin it.

The final General Local Law document will be presented to Council in August 2016 for adoption and subsequent gazettal. Following gazettal, the current Local Law 2 and Local

Law 3, including any amendments will cease to be operational and the new General Local Law will take effect.

### ***Summary of the General Local Law***

Overall, the current Local Law 2 and 3 are considered to have served the community well. The proposed General Local Law is a combination of Local Law 2 and 3 and there have not been significant changes between the documents. The intent of both documents remains the same as do the majority of clauses. The removal of duplications and anomalies and the streamlining of cumbersome language make up the majority of changes between the proposed General Local Law and the existing Local Law 2 and 3. Major changes will be discussed briefly in the below section and further detail in Part C of this document.

#### *What are the differences between the existing and proposed Local Law?*

The reduction to a single document is the main difference between the existing Local Laws and the proposed General Local Law. The intent of the Local Laws remains unchanged and for the most part, all of the provisions included have come from the existing Local Laws and have been in place in the community for over 15 years. These same requirements have been included in the proposed General Local Law without much modification. Any minor modifications are to address practical problems raised in the application, interpretation or enforcement. Major changes or modifications are outlined below and discussed in further detail later in this report.

Disturbing noise in Council's parks and gardens has been a contentious and challenging topic within the municipality for many years. Currently, Local Law 3 specifies that sound producing devices may not be heard outside the boundaries of a particular park. The ambiguous nature has led to different interpretations and difficulties with enforcement. Changes to this clause regarding sound producing devices being heard within a habitable room seeks to deal with different interpretations while allowing residents the quiet enjoyment of their property and the public the ability to enjoy Council's parks and gardens.

In the current Local Law 3, neighbours with significant trees overhanging their property were able to trim branches of significant trees back to their common fence line. This exemption has been removed allowing greater protection of significant trees.

Camping on Council land, roads, footpaths and parks is currently covered in both Local Laws and includes a complex provision allowing camping for not more than 8 consecutive hours during any period of 7 consecutive days. This provision has been removed allowing for better and immediate enforcement of camping on Council land.

Community complaints regarding commercial delivery noise and crane noise has been responded to. The inclusion of timeframes for the delivery or collection of goods to commercial enterprises and set crane noise limits seeks to improve community amenity and reduce noise complaints. Issues surrounding the placing of bulk rubbish containers on Council land have also been considered and changes made regarding this activity in the proposed General Local Law.

A new clause in each of the sections relating to Building Works and Spoils on Roads has been added to differentiate between individual and commercial building works. A new clause relating to crane noise seeks to cover a previously silent area for enforcement.

Sections relating to impounding has been reviewed and updated to correct anomalies relating to process and procedure.

Delegations is a new clause that has been added to outline the process, discretions and authorities of Council under the proposed General Local law to issue, amend or waive permits and/or any associated conditions.

The three separate sections relating to unsightly land, noxious weeds and vermin have been combined to provide a more succinct approach. Definitions relating to what is deemed unsightly have been reviewed to allow for objective assessments.

### ***Application of the General Local Law***

Local Laws apply to all land in the Municipal district, irrespective of ownership (except non-residential land owned / or managed by another public authorities) and does not regulate anything already regulated by the Yarra Planning Scheme. If a permit is required under the Planning Scheme for a particular use or activity, that will negate the need for a Local Law permit.

### ***Structure of the General Local Law***

The proposed General Local Law falls into three sections and an appendix, these being:

#### *Part A – Introduction:*

Clauses 1 - 7 set out legislated requirements that must be addressed in Local Laws such as the name of the Local Law, commencement date and the authority for making the Local Law.

#### *Part B – Uses and Activities regulated by this Local Law:*

Clauses 8 - 68 contain the substantive provisions regulating various uses and activities on land in the municipal district. The uses and activities are grouped under relevant subheadings to simplify the Local Law and for ease of reference:

- Parking or driving in recreational reserves
- Traffic and other hazards
- Vehicle crossings
- Behaviour on roads and Council land
- Council Assets
- Signs, Goods and Furniture
- Sale of Goods, Street Collections and Spruiking
- Numbering of Allotments
- Motor Vehicles
- Safety
- Use of Parking Permits
- Tree Protection
- Use of Land

- Building Works and Asset Protection
- Waste and Commercial Activities
- Animals and Birds
- Management of Drains
- Open Air Burning and Incinerators

*Part C – Administration and Enforcement:*

Clauses 69 - 79 set out the processes for applying for permits and the various administrative requirements to guide the Council in the application of its Local Law. It allows for exemptions from permits in certain circumstances.

This part also deals with enforcement of the Local Law. These provisions are not new as they exist in the current Local Laws 2 and 3. As per the current Local Laws, there are a range of measures that an Authorised Officer of the Council can use to ensure that the General Local Law is being followed. These include a power to direct in urgent circumstances or for public safety reasons and a power to impound. Other sections include a power to issue warnings or serve a notice to comply which puts a person on notice about a Local Law breach and gives them an opportunity to remedy the breach before any further action is taken.

Infringement notices can be issued for any contravention of the General Local Law. The penalties for an infringement notice are usually approximately half of the maximum amount that can be imposed by a Magistrate if a matter goes to court. The fixed penalties for infringement notices are set out in Schedule 1. If penalty amount is not fixed then the penalty is two (2) penalty units.

*Schedule 1 – Infringement notice value and Court penalties for contravention of this Local Law*

The appended Schedule 1 contains a list of the infringement notice value and court penalties for all offences that are fixed. Any offences not contained in Schedule 1 have penalty amounts of two (2) penalty units.

**Conclusion**

The proposed General Local Law results from a review of the current Local Law 2 and Local Law 3. It proposes reasonable changes based on the existing Local Laws to achieve better amenity, safety and public health objectives for the community and to complement legislative measures enacted by the State Government.

This discussion paper has been prepared to assist further discussion and review by Councillors and staff about the proposed changes. It will also be used to inform and assist the community in the formal review of the proposed General Local Law on some of the key matters that are fundamental to making Local Laws. Key matters that have been taken into consideration in the review and remaking of the General Local Law are addressed further in this report.

## **PART B – Comments on the proposed General Local Law overall.**

### ***Measures of success***

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

- monitoring the level of compliance;
- comparing the level of compliance with the previous year's monitoring; and
- assessing the resources required to administer and enforce the Local Law.

Such monitoring is already undertaken in Council's quarterly Compliance Reports. Additional information will be incorporated to assess these criteria in light of the adoption of the proposed General Local Law.

### **Existing legislation that might be used instead**

*Roads and Council Local Law No. 2 (Local Law 2)* and the *Environment Local Law No. 3 (Local Law 3)* are not scheduled to expire until 2022. The identification of a number of practical issues and anomalies require earlier resolution. The logical outcome of the review of the existing Local Laws has led to the development of the proposed General Local Law. The proposed General Local Law will supplement existing state legislation administered and enforced by Council.

### **State legislation more appropriate**

State legislation compels Council to make Local Laws to address issues within the municipality. In reviewing the existing Local Law 2 and 3 and subsequently developing the proposed General Local Law, Council has considered a number of matters. Council has not sought to address any matters through the General Local Law which it feels are best addressed at the State or Federal level.

### **Overlap of existing legislation**

Council does not consider that any provision of the Proposed Local Law overlaps with any existing State legislation.

### **Overlap of planning scheme**

Council does not consider any provision of the General Local Law overlaps, duplicates or creates an inconsistency with the Yarra Planning Scheme.

### **Risk assessment**

Council has adopted a risk management approach to the review and development and does not believe there are any risks associated with the proposed General Local Law

### **Legislative approach adopted**

Council believes in the minimum imposition on the community with Local Laws. The proposed General Local Law reflects this approach by providing for:

- where possible, provision for permits rather than prohibition of activities;
- reasonable penalties;
- reasonable and appropriate permit conditions which will be relied on if a decision is made to issue a permit under the proposed General Local Law;
- reasonable enforcement procedures, including provision for the giving of warnings where appropriate, provision of an internal review process for infringement notices and refusal of permit applications.

Council has ensured that the proposed General 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 in the State of Victoria;
- is not inconsistent with the principles, objectives or intent of the enabling Local Government Act 1989 (Act);
- 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;
- 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;
- does not unduly trespass on rights and liberties of the person previously established by law;
- does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions;
- is not inconsistent with principles of justice and fairness; and
- does not overlap or conflict with other statutory rules or legislation.

### **Penalties**

The Local Law prescribes penalties for offences against the Local Law based on limits in the Local Government Act 1989, which sets the maximum penalty that can be imposed at 20 penalty units. The penalties are prescribed by reference to “penalty units” which under the Sentencing Act 1991 are limited to \$100 for each penalty unit.

Penalties for particular breaches of the provisions of the Local Law have all been reviewed. Amendments to the prescribed penalty amounts for some offences have been made to ensure Schedule 1 remains consistent with the Attorney-General's requirements that:

*'An infringement penalty should generally be approximately no more than 20 – 25% of the maximum penalty for the offence and be demonstrated to be lower than the average of any related fines previously imposed by the Courts.'*

While the prescribed penalties for some offences have increased, other penalty amounts have been reduced. The overall number of offences with prescribed penalties has increased. In most cases, the number of penalty units applicable for an offence has decreased and are scaled to reflect the impact of the offence on the community. The penalty amounts established in the proposed General Local Law are designed as a deterrent and are considered appropriate.

Section 110 of the Sentencing Act 1991 provides that all penalty units imposed under subordinate legislation are indexed by the Treasurer under section 5(3) of the Monetary Units Act 2004, with the exception of penalty units imposed under a Local Law. This distinction means that the value of a Local Law penalty unit has been decreasing annually in real terms, and remains at \$100, despite all other penalty units rising to \$151.67 in 2015/2016.

### **Permits**

A number of provisions in the proposed General Local Law require permits for various activities to be obtained.

### **Fees**

The proposed General Local Law allows Council to set fees for permits annually and this will be done as part of the budget process.

### **Performance standards or prescriptive**

Where appropriate and possible, Council has adopted a performance-based approach to the proposed General Local Law provisions rather than a prescriptive approach.

### **Comparison with neighbouring and like Councils**

In drafting the Proposed Local Law, Council examined the Local Laws of both its neighbouring and comparable inner city municipalities (Boroondara, Stonington, Maribyrnong, and Darebin Councils). The purpose of conducting this exercise was to assess the similarities and differences between comparable municipalities so as to ensure a best practice approach was adopted in the drafting of the proposed General Local Law and the establishment of penalties.

### **Charter of Human Rights**

The Charter of Human Rights and Responsibilities Act 2006 (Vic) (the Charter) applies to all subordinate legislation (Local laws). Under Schedule 8.2 of the Local Government Act 1989:

*A local law must not –  
(j) be inconsistent with principles of justice and fairness;*

Having reviewed the proposed General Local Law as a whole, Council is satisfied that the proposed General Local Law will be consistent with the Charter.

### **Consultation meetings**

Internal consultation meetings have been held during the development of the proposed General Local Law. Public Information sessions will be held during the consultation period.

### **Submissions**

A submission process will be conducted in accordance with the legislative requirements prescribed under section 223 of the Local Government Act 1989.

In summary, that process requires Council to publish a public notice calling for written submissions in relation to the proposed General Local Law. Those submissions are then considered by the Council as part of the consultation process.

**PART C - Assessment of major changes to the General Purposes Local Law.**

**1. Administration of Council's powers and functions**

<p><b>Problem the local law intends to address</b></p>	<p>Local Law 2 (LL2) and Local Law 3 (LL3) are lengthy documents with duplicated clauses. The community and authorised officers have difficulty navigating the documents. The wording is overly complex and at times, difficult to understand.</p>
<p><b>Action/change</b></p>	<p>Rationalise the existing LL2 and LL3 into a single document and remove duplicated clauses and wording. The resulting General Local Law is divided into three key parts with the same format as the previous Local Laws.</p> <p>The introduction contains new definitions and the objectives of the Local Law. This part also contains the statement of use of incorporated documents, other standard provisions that are required and where the local law applies e.g. throughout the whole of the municipal district.</p> <p>The second part is the substantive section of the local law which groups the uses and activities regulated by the Local Law including uses and activities that require a permit; uses that require compliance with the local law; or standards prescribed in documents incorporated by reference and uses that are prohibited.</p> <p>The third part of the local law is the administration and enforcement provisions which provide more process around the permit system and better clarity around the powers of an authorised officer.</p>
<p><b>Perceived Benefits</b></p>	<p>This is considered a better form of local law as it provides increased clarity and guidance to authorised officers and the community.</p>
<p><b>Perceived Disadvantages</b></p>	<p>The General Local Law may be considered to be too simplistic and lacking detailed focus on issues specifically affecting the municipality.</p>

**2. Community Amenity**

<p><b>Problem the local law intends to address</b></p>	<p><b>Disturbing Noise in Council's Parks and Gardens</b></p> <p>Currently, LL3 specifies that sound producing devices may not be heard outside the boundaries of a particular park. This clause is considered too general and is difficult to enforce.</p> <p>Additionally, the use of a device powered by anything more potent than 5 or more D cell batteries is prohibited. Given the use of smart phones and other technology to play music, the reference to D cell batteries is archaic and irrelevant.</p>
<p><b>Action/change</b></p>	<p>Clause 44.2 has been amended to remove the reference to “D” cell batteries and includes a test that the sound be heard in a habitable room of a dwelling. <i>Refer to Page 36 of the Proposed General Local Law 2016.</i></p> <p>Clause 44.3 has been amended to remove the reference to noise being heard outside the boundary of the park to within a habitable room of a dwelling. <i>Refer to Page 36 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Noise complaints are one of the most commonly raised matters with Council health, planning, building and local laws officers. The substantive noise provisions are contained in the Environment Protection Act 1970 and Regulations. Council officers are given clear powers under that legislation in relation to residential noise but resolution and enforcement are not straightforward. The change to incorporate “within a habitable room” brings Council legislation in line with existing Environment Protection Act 1970 and Regulations. Noise related controls have been incorporated to improve amenity and raise the desirability of living in the Municipality.</p>
<p><b>Perceived Disadvantages</b></p>	<p>Authorised officers will be required to undertake more rigorous investigations to determine whether or not noise is audible within a habitable room. Additional consideration needs to be given to determine if noise from a park is a reasonable expectation when living near a park or if there are times when noise is more acceptable than others.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Activities on Council Land</b></p> <p>Clause 16.3.2 of LL3 states that a person must not “interfere with the quiet enjoyment of the Council land by any other person”. This is not appropriate as “quiet enjoyment” is a legal term which means, in effect, the enjoyment of land to the exclusion of all others.</p>
<p><b>Action/change</b></p>	<p>Clause 46.3 of the proposed General Local Law is the same as clause 16.3 of the Environmental Local Laws No. 3 of 2012 other than the amendment of clause 16.3.2 of the same Local Law to remove the reference to ‘quiet enjoyment’ and replace with a new test of “unreasonable interference”. <i>Refer to Page 36 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Authorised officers will be able to more readily investigate and enforce as appropriate. Removal of “quiet enjoyment” more accurately defines the offence.</p>
<p><b>Perceived Disadvantages</b></p>	<p>Authorised officers will now need to test and determine what would constitute unreasonable in any alleged offence.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Activities on Council Land</b></p> <p>Slack-lining and playing golf on Council Land is not specifically mentioned in the existing LL2 or LL3. Both activities have significant safety ramifications for other park users and could potentially damage Council assets.</p>
<p><b>Action/change</b></p>	<p>The addition of Clause 46.3.3.5 “play or practice golf” and Clause 46.3.3.6 “construct any line, string, rope or other similar thing to any tree” prohibits these activities without a permit. <i>Refer to Page 37 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Increased safety for park users and the protection of Council assets.</p>
<p><b>Perceived Disadvantages</b></p>	<p>Restrictions on certain types of use by the community. The inclusion of expanded provisions in the Local Law will not necessarily prevent use from occurring but will create an expectation that certain activities can be eliminated. The practicalities of enforcement and resolution of complaints can be expensive and is difficult and lengthy.</p>
<p><b>Problem the local law intends to address</b></p>	<p><b>Occasional Events in Council’s Parks and Gardens</b></p> <p>The definition of occasional events in Council’s Parks and Gardens is inconsistent with an existing Council policy regarding the number of people to define the event as ‘occasional’.</p>

<p><b>Action/change</b></p>	<p>Definition of ‘occasional gathering’ in Clause 45.2 has been expanded from a gathering of 40 to 50 people. <i>Refer to Page 37 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Incorporates existing Council policy definitions and ensures consistency. Limit for permit triggers increased.</p>
<p><b>Perceived Disadvantages</b></p>	<p>There are no disadvantages to ensuring continuity between Council’s Local Laws and existing Council policies.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Camping</b></p> <p>Camping on Council Land is an ongoing source of complaint. Currently, camping is covered in both LL2 and LL3. An existing provision allowing camping for not more than 8 consecutive hours during any period of 7 consecutive days is difficult to enforce.</p>
<p><b>Action/change</b></p>	<p>Clause relating to timeframe exemptions has been removed. The addition of Clause 17.2 imposes liability on the registered owner of a vehicle. This clause is required to ensure the clause is enforceable. The discretion to exempt persons and special circumstances has been deleted and now can be achieved by exemptions in administration and guidelines. <i>Refer to Page 19 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Increased amenity as camping and the occupation of Council land is controlled. Reduction of potential for damage to Council assets.</p>
<p><b>Perceived Disadvantages</b></p>	<p>There are no perceived disadvantages associated with these alterations.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Keeping of Animals and Birds</b></p> <p>There is no clear prohibition on roosters and there is a lack of clarity regarding the numbers and definitions of allowable animals, particularly poultry and other birds. Additional nuisance animals already covered under Domestic Animals Act 1994.</p>
<p><b>Action/change</b></p>	<p>Clause 60 has been amended to increase the keeping of birds in a cage without a permit to 15 (not poultry), the removal of the reference to dogs over 6 months, roosters, peafowl, guinea fowl, pheasants and the like now all require a permit as do reptiles. <i>Refer to Page 47 of the Proposed General Local Law 2016.</i></p> <p>Clause 60.4 Inclusion of bees in categories of animals/insects not allowed to be kept on the land unless permitted under the Yarra Planning Scheme. <i>Refer to Page 47 of the Proposed General Local Law 2016.</i></p> <p>Clause 42 of LL3 removed – no roosters allowed to be kept. Nuisance animals covered in Domestic Animals Act 1994 (dogs and cats).</p>
<p><b>Perceived Benefits</b></p>	<p>Greater clarity regarding the keeping of animals.</p>
<p><b>Perceived Disadvantages</b></p>	<p>There are no perceived disadvantages associated with these alterations.</p>

### 3. Amenity

<p><b>Problem the local law intends to address</b></p>	<p><b>Building Works</b></p> <p>Noise complaints due to construction work is an ongoing issue for Authorised Officers. Specifically, noise from cranes on building sites is not currently covered under the existing LL 2 &amp; 3.</p>
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<p><b>Action/change</b></p>	<p>Clause 49.14 is a new clause imposing requirements to limit the noise emitted from a crane. Specifically, a requirement has been added to adhere to noise limits specified in the procedures and protocols manual. Procedure and Protocol Manual currently under development. <i>Refer to Page 41 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Clear guidelines surrounding crane noise will result in improved amenity for residents and the community.</p>
<p><b>Perceived Disadvantages</b></p>	<p>There are no disadvantages from being able to apply proper and reasonable controls on crane noise.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Deliveries to Commercial Premises</b></p> <p>Noise complaints from deliveries to commercial properties are often raised with Council health, planning, building and local laws officers. Currently there are no specified times for the delivery of goods or provision of services to a commercial enterprise.</p>
<p><b>Action/change</b></p>	<p>Addition of a clause relating to allowed timeframes for the delivery or collection of goods or the provision of services to commercial enterprises. <i>Refer to Page 45 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>The new controls applied to commercial operators is an attempt to balance the impacts of those activities on residents living in close proximity. Clear requirements will enable Council to better regulate deliveries or collecting of goods from commercial premises resulting in improved amenity for residents and the community.</p>
<p><b>Perceived Disadvantages</b></p>	<p>There are no disadvantages from being able to apply proper and reasonable controls. However, some commercial premises may argue that collection and delivery times during reduced hours may detrimentally affect their business.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Obstructions and Hazards on Roads and Council Land – Bulk Rubbish Containers</b></p> <p>Currently there are no time restrictions regarding when bulk rubbish containers can be placed on Council land for collection.</p>
<p><b>Action/change</b></p>	<p>The addition of a new clause prohibiting the placing or collecting of a bulk rubbish container during certain hours without a permit. <i>Refer to Page 14 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Clear and expanded requirements will enable Council to better regulate the placing and collection of bulk rubbish containers resulting in improved amenity for residents and the community</p>
<p><b>Perceived Disadvantages</b></p>	<p>There are no disadvantages from being able to apply reasonable controls. However, some commercial premises may argue that strict time requirements may impinge on the functioning of their business.</p>

**4. Amenity, public health and safety**

<p><b>Problem the local law intends to address</b></p>	<p><b>Unsightly Land</b></p> <p>Unsightly land, noxious weeds and vermin. Each of these sections relied on subjective definitions and interpretations.</p>
<p><b>Action/change</b></p>	<p>Separate sections for unsightly land, noxious weeds and vermin have been combined to provide a more succinct approach. Clause 41.1 has the same intent as the previous Clause 10 in LL3 however, the reference to Planning Scheme has been removed and the clause relates only to being unsightly. <i>Refer to Page 35 of the Proposed General Local Law 2016.</i></p> <p>Clause 41.2 is the second part of Clause 10 in LL3 and includes more circumstances which an owner of land must ensure the land does not become. <i>Refer to Page 35 of the Proposed General Local Law 2016.</i></p> <p>The clause has been amended and wording revised to improve enforceability. <i>Refer to Page 35 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>These provisions guide the authorised officer to determine whether the condition of a land or building contravenes the Local Law, and also guides the community on the condition and appearance that will be treated as unsightly, detrimental or a risk.</p>
<p><b>Perceived Disadvantages</b></p>	<p>In some cases, the resolution of unsightly land complaints is complex. The provision in the Local Law could be perceived as onerous and limiting the use of a person's land. It also provides a black and white solution for specific conditions and may not apply to other issues not considered.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Shopping Trolleys</b></p> <p>Shopping trolleys - increased numbers of shopping trolleys being dumped in public places. This problem is not unique to Yarra and seems to be encountered by most metropolitan Councils. For some retailers, it is easier and cheaper to replace the trolleys dumped on public roads and other public places than to collect them.</p>
<p><b>Action/change</b></p>	<p>Clause 15.1 is a new clause for the definition of a shopping trolley. <i>Refer to Page 18 of the Proposed General Local Law 2016.</i></p> <p>Clause 15.2 same as previous clause 17.1 in LL2. Some amendments to improve clause. <i>Refer to Page 18 of the Proposed General Local Law 2016.</i></p> <p>Clause 15.3 new clause imposing liability on owner of a shopping trolley who fails to collect after being notified of trolley in a public place. <i>Refer to Page 18 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>The addition of imposing liability on the owner of a shopping trolley seeks to encourage better management.</p>
<p><b>Perceived Disadvantages</b></p>	<p>While there are ways to prevent trolleys from being removed from retailer's land, this may be too onerous for all traders (including small traders). There may be increased costs to retailers which potentially could be passed on to consumers for compliance with this requirement.</p>

**5. Environment and Amenity**

<p><b>Problem the local law intends to address</b></p>	<p><b>Significant Trees</b></p> <p>The current clauses in LL3 place the onus on “a person” rather than the property owner which has caused enforcement issues. The definition of a significant tree referred to measurements taken 1.5m above ground level which did not allow for removed trees. The landowners of property adjacent to a significant tree with overhanging branches are currently exempt from obtaining a permit to trim the significant tree to their property line. If the tree is considered significant, the whole of the tree should be protected. Otherwise anomaly follows.</p>
<p><b>Action/change</b></p>	<p>The definition of a Significant tree has changed to incorporate measurements at ground level. <i>Refer to Page 11 of the Proposed General Local Law 2016.</i></p> <p>New clause 39.4 which imposes liability on an owner of land, on which a significant tree is removed, destroyed, damaged or lopped. <i>Refer to Page 34 of the Proposed General Local Law 2016.</i></p> <p>Removal of clause exempting adjacent landowner from removing overhanging branches of a significant tree. <i>Refer to Page 34 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>The ongoing protection of trees that are considered to be significant.</p>
<p><b>Perceived Disadvantages</b></p>	<p>Adjacent landowners will need to confirm if adjacent trees with overhanging branches are significant and then apply for a permit to trim back foliage to their fence line. Issues with issuing a permit for tree owned by another person.</p>

<p><b>Problem the local law intends to address</b></p>	<p><b>Dogs</b> Dog Waste (faeces) and litter devices.</p>
<p><b>Action/change</b></p>	<p>More detailed provisions have been included that deal with the clean-up of dog waste (faeces) and the requirement to carry a litter device. <i>Refer to Page 19 of the Proposed General Local Law 2016.</i></p> <p>Clause 16 re-worded to improve regulation of dog excrement in public places. <i>Refer to Page 19 of the Proposed General Local Law 2016.</i></p> <p>Clause 16.1 new clause requiring the carrying and production of a litter device. <i>Refer to Page 19 of the Proposed General Local Law 2016.</i></p>
<p><b>Perceived Benefits</b></p>	<p>Reduction in the amount of dog waste on Council land and improvement of the general amenity for the community</p>
<p><b>Perceived Disadvantages</b></p>	<p>Management of animals in both public and private situations remains one of the most emotional and controversial matters to enforce. However, there are no perceived disadvantages from being able to regulate and enforce this topic.</p>
<p><b>Problem the local law intends to address</b></p>	<p><b>Overhanging and Encroaching Vegetation</b> Overhanging and encroaching vegetation limits are currently 2.7 metres which is greater than surrounding Councils.</p>

<b>Action/change</b>	Reduce height restrictions from 2.7 metres to 2.4 metres for overhanging and encroaching vegetation limits. <i>Refer to Page 14 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	Easier for residents to comply with lower heights restrictions.
<b>Perceived Disadvantages</b>	No perceived disadvantages.

<b>Problem the local law intends to address</b>	<b>Household Waste</b> One of the biggest areas of complaint to Local Laws is litter and the management of bins left for collection. Specifically, bins being left out constantly, contents spillage or creating hazards due to placement.
<b>Action/change</b>	Addition to Clause 51.10 for compliance with any requirements for the placement of approved waste and recycling receptacles specified in the procedure and protocol manual. <i>Refer to Page 44 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	The ability for requirements applying to household waste collection will be a way Council will be able to tackle litter, bins and their contents spilling onto roads and unsuitable waste being sent to landfill. Additionally, individual circumstances relating to footpath width or storage issues will be covered in the Procedure and Protocol Manual and provide guidelines for issuing of permits if required.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to regulate and enforce this requirement.

<b>Problem the local law intends to address</b>	<b>Storage of Trade Waste</b>
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<b>Action/change</b>	Addition to Clause 54.1 of compliance that any <i>trade waste hopper</i> kept on the land is constructed and maintained in accordance with any requirements specified in the <i>procedures and protocols manual</i> . A Procedures and Protocols Manual has been developed. <i>Refer to Page 44 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	The storage and management of trade waste bins for commercial premises is an area of ongoing complaint. Individual circumstances will be covered in the Procedure and Protocol Manual and provide guidelines for issuing of permits if required.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to regulate and enforce this requirement.

<b>Problem the local law intends to address</b>	<b>Real Estate “For Lease” Signs.</b> Currently timeframes for removal of Real Estate property advertising boards only applies to “For Sale” signs under the Yarra Planning Scheme. The current Local Laws and Yarra Planning Scheme are silent on “For Lease” signs.
<b>Action/change</b>	Clause 26.6 is a new clause imposing liability on a person who leaves a ‘for lease’ sign on a building beyond 14 days after the lease of a building. <i>Refer to Page 25 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	Greater control over the length of time to remove real estate property advertising signs. Reduction of visual clutter.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to regulate and enforce this requirement.

**6. Protection of Council and community assets**

<b>Problem the local law intends to address</b>	<b>Building Works</b> Currently there is no distinction between infringements imposed on individuals or commercial construction.
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<b>Action/change</b>	Clause 49.15 has been added to reduce infringement penalties for individuals to half that applied to developers of residential land. <i>Refer to Page 41 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	Recognises the difference between individual property owners and commercial enterprise.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to distinguish between private and commercial owners.

<b>Problem the local law intends to address</b>	<b>Spoils on Roads</b> Currently there is no distinction between infringements imposed on individuals or commercial construction.
<b>Action/change</b>	Clause 31.4 has been added to reduce infringement penalties for individuals to half that applied to developers of residential land. <i>Refer to Page 29 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	Recognises the difference between individual property owners and commercial enterprise.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to distinguish between private and commercial owners.

<b>Problem the local law intends to address</b>	<b>Asset Protection Permit</b> Currently any building works requiring a building permit must not be carried out unless an Asset protection permit has been obtained.
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<b>Action/change</b>	Clause 25 is the same as clause 25B in LL2 other than an exception in the opening words. The inclusion of the exemption in the opening words of the clause is a prompt for persons to identify whether they need to comply with the clause at first instance. This is necessary because not all 'building work' will require an asset protection permit. This was a mandatory provision and an additional clause has been added allowing officer discretion regarding obtaining an Asset Protection Permit. <i>Refer to Page 23 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	Recognises that an Asset Protection Permit is not always required or appropriate when a Building Permit is obtained.
<b>Perceived Disadvantages</b>	There are no perceived disadvantages from allowing greater discretion surrounding the requirement to obtain a permit.

<b>Problem the local law intends to address</b>	<p><b>Trailers, Boats and Caravans on Council Roads</b></p> <p>Previously, only trailers were not allowed to be left on Council roads without a permit.</p>
<b>Action/change</b>	Clause 22 is the revised clause 36 in LL2 which related to trailers only. The new clause prohibits a person from leaving a boat, trailer or caravan on a road, footway or Council land for periods of time longer than 1 hour if not attached to a registered vehicle without a permit. <i>Refer to Page 22 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	These controls are intended to remove potential hazards and enhance pedestrian safety as well as maintain neighbourhood amenity.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to regulate and enforce this requirement.

**7. Administration and Enforcement**

<b>Problem the local law</b>	
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<b>intends to address</b>	<b>Impounding</b>  This section has been reviewed and updated to correct anomalies relating to process and procedure.
<b>Action/change</b>	Clause amended to provide for the ability to sell, give away, destroy anything impounded which is not collected. <i>Refer to Page 51 of the Proposed General Local Law 2016.</i>  Clause reworded to provide for better governance for impounded items. <i>Refer to Page 51 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	The ability for Authorised officers to removal abandoned items from Council land will lead to greater safety due to less obstructions and the reduction of visual clutter.
<b>Perceived Disadvantages</b>	There are no disadvantages from being able to regulate and enforce this requirement.

<b>Problem the local law intends to address</b>	<b>Delegations</b>  The current LL2 and LL3 are silent on delegations.
<b>Action/change</b>	Clause 80 has been added to outline the process, discretions and authorities of Council under the proposed General Local law to issue, amend or waive permits and/or any associated conditions. <i>Refer to Page 56 of the Proposed General Local Law 2016.</i>
<b>Perceived Benefits</b>	Greater clarity regarding process and discretions.
<b>Perceived Disadvantages</b>	There are no perceived disadvantages from the inclusion of this clause.