



## Frequently asked questions relating to the proposed General Local Law 2023:

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### **Part 2 – Use of Council Land and Buildings**

#### **Why doesn't the proposed Local Law include a clause prohibiting people of the opposite gender entering dressing rooms, showers toilets or amenities in Council buildings like the one in the 2013 Local Law (as per Clause 11.10 in 2013 General Local Law)?**

The clause from the 2013 Local Law cannot be included in its current form in the new Local Law because it is inconsistent with the *Sex Discrimination Act 1984*. Any new Local Law cannot contradict or be inconsistent with other legislation.

#### **If the Sex Discrimination Act was established in 1984, why was Council able to include clause 11.10 in 2013 when it adopted the current Local Law No. 2, but not able to include it in 2023? What has changed?**

The original *Sex Discrimination Act 1984* is nearly 40 years old, and there have been many amendments to the legislation since then to keep it current. One amendment, that came into effect on 1 August 2013, introduced a broader range of characteristics to consider to avoid discrimination. Clause 11.10 of the Local Law No. 2 that is about to expire is inconsistent with the updated parts of the Sex Discrimination Act. This is explained in the legal advice received by Council (available at Council's website under Related Documents – [Legal Advice from Maddocks re: Proposed Local Law Redacted](#)).

Another change that has occurred since 2013 relates to the *Local Government Act 2020*, which sets out how Local Laws must be prepared today. Section 74 of the *Local Government Act 2020* mandates that Council must have an appropriately qualified lawyer certify that the proposed Local Law is not inconsistent with other legislation.

The proposed Local Law 2023 cannot achieve certification if clause 11.10 is included, and if a new certified Local Law is not established before the current Local Laws sunset, then Council and the community will have no locally-established controls over general amenity, livestock or consumption of alcohol in public places.

#### **How often has Council had cause to enforce the clause 11.10 of the current Local Law No. 2 due to people entering toilets nominated for the opposite gender?**

Council has checked its records back to before the 2013 Local Law was adopted and has no record of having ever used this clause. Additionally, discussion with long-standing Authorised Officers who enforce compliance with the Local Law (both Council officers and Vic Police) and no one has a recollection of the clause ever having been used.

#### **Which facilities does this part of the Local Law apply to?**

Part 2 applies to all facilities, such as toilets, showers and change rooms, in Council-managed buildings, and has no implication for private buildings.

#### **Do other Victorian councils have a clause like the one that Colac Otway Shire Council is proposing to remove?**

An audit of the other 78 Victorian councils shows that 68 (or 87%) do not have a similar clause prohibiting people of one gender from entering a facility designated for another gender.



**Does Council think people’s use of its facilities will change if there isn’t a similar clause in the new Local Law?**

We don’t expect to see major changes to the way the majority of people use our public toilets. Not including a restriction like the old clause just means people can use the toilets and facilities that they’re most comfortable using, so those identifying as non-binary, gender diverse or transgender would lawfully be able to use the toilets and facilities of their choice. Also, children of any age could be accompanied by a parent or caregiver of any gender when using toilets.

**Are you proposing to remove male and female signage from toilets and facilities?**

No, we still plan to provide a range of male, female, unisex and family friendly options across the shire.

**Why doesn’t Council just add a unisex option to all of its toilets and facilities?**

A lot of our existing older toilets and facilities only have female and male signed facilities and no separate unisex options. Updating all of these facilities would require significant funding and take time. Any new builds or redevelopments will include more inclusive options.

**Why wasn’t the omission of the clause discussed in the Community Impact Statement?**

The Community Impact Statement highlights matters to do with the proposed Local Law. It isn’t a comparison to old Local Laws that are going to expire, nor is it a ‘change’ to these Local Laws. While updates are required to comply with legislation, the community can provide feedback on any potential impacts or issues for consideration, which Council may be able to address in other ways.

**Are people still protected from offensive or threatening behaviour in toilets or facilities?**

Yes. Clause 2.3 of the proposed Local Law addresses behaviour of people that may be indecent, insulting, offensive, abusive, threatening or otherwise unreasonable. There are others laws are in place to protect our community from people behaving in an offensive or threatening way anywhere, including in Council toilets and facilities. These laws include the Summary Offences Act 1966 (Section 17 - obscene, indecent, threatening language and behaviour in public, and Section 19 – sexual exposure) and the Crimes Act 1958 (Section 48 – sexual activity directed at another person). People should always call the triple zero (000) if they have any immediate safety concerns.

**Part 3 – Consumption and Possession of Alcohol**

Clause 3.1 Addresses consumption of alcohol in public places.

**How does this change impact on residents/visitors?**

The impact of the proposed Local Law is that it allows Council to create future opportunities for small groups to consume alcohol in public places where prescribed by Council or with a permit. This balances contemporary expectations of alcohol consumption with the need to maintain reasonable controls with conditions that avoid nuisance or risk to others.



## **Part 6 – Camping**

The camping clause addresses camping on Council land, public places and privately owned land.

### **Can a person camp on Council land or public land?**

No camping on Council land or public land is allowed without a permit from Council, unless it is in a caravan park or an area Council has permitted for overnight camping.

### **Can a person camp on vacant private land?**

People will be able to camp for a total of six months of the year on private land, **where there is a dwelling**, if the landowner authorises the camping. The change will provide the opportunity for temporary accommodation for key workers and others, while continuing to maintain amenity for neighbours and the environment.

People may also camp on **vacant** private land for up to 28 days and for a total of 3 months in the year, where a number of conditions are met that relate to health, safety and protection of the natural environment.

## **Part 11 – Animals and Livestock**

Provisions in this section of the proposed General Local Law 2023 regulate the movement of livestock and keeping of animals, birds, reptiles and bees.

### **What has changed with regards to cat pet ownership under the proposed General Local Law 2023?**

Cat owners will be required to restrict their cat to their property, either within the dwelling or within another escape-proof structure, between the hours of sunset and sunrise.

### **What is the intention of the Local Law for confining a cat to a home overnight?**

A pet cat is more likely to get hit by a car, get injured in a fight or become lost at night. Roaming cats can also kill native wildlife and annoy neighbours by spraying, fighting, yowling and digging in gardens.

### **How can a keeper of bee hives ensure their bees aren't a nuisance, surely bees are everywhere?**

There is an Apiary Code of Practice which is to ensure that the keeping of honey bees does not become a nuisance to people, property, domestic animals or native flora and fauna.

A common cause of complaints is bees foraging for water. Providing water in your yard for bees can be a simple solution to alleviating this problem.