

Submission 1 – Local Law Review 2019

Sent: Wed 19/06/2019 10:54 AM

I am writing as I do not believe that the 2019 local Laws go far enough to protect us from unsightly properties. I live at [Redacted - personal information] and for many years we have lived with an unfinished building site at [Redacted - personal information]. Council has achieved nothing in rectifying this issue. Derelict cars line the owners property along the unfenced boundary in full view of the streetscape Council has achieved nothing to rectify the issue. A trailer is permanently parked with a derelict car body on top of it on the street. Council has done nothing to rectify the issue. This is a blight on our street and effects the way we live our lives and this affects our daily well being. Everyday we leave for work we are greeted by what resembles a tip site and when we get home it is the same. This has a detrimental effect on the neighborhood and we as residents are in disbelief that the council has allowed this to go on without fines and orders to clean up the property and area. Having been in correspondence with council on multiple occasions over multiple years our complaints have fallen on deaf ears as the problem is too difficult for council to handle. I have been led to believe the laws currently in place are too loose and prosecution is too difficult and costly. We as rate payers pay our rates on time every quarter and as such expect the council to meet their obligations and enforce the local laws so every resident can live in a community so that the actions of an individual or group do not have a negative or undesirable impact on the rest of the community. You now have the opportunity to make changes to guard against this type of anti social behavior. If every resident in the street acted like this it would be an appalling situation. So how can one resident behave like this and be allowed to get away with it. Please make a changes to protect us as we should not have to live like this. In my opinion the 2019 Local Laws should include - unless in accordance with the planning scheme or permit a person must not use the land to store, dismantle or break up Motor Vehicles, motor boats, machinery or goods or materials unless in accordance with the planning scheme or permit - a person must not use the land to service or repair any Motor Vehicle (except one which is registered under the Road Safety Act 1986) or motor boat. -The owner and occupier of the land must not cause or allow the land and nature strip adjacent to the land to be kept in a condition which is unsightly or detrimental to the general amenity of the neighborhood which includes Junk as defined by the proposed Glen Eira City Council Laws of 2019. - Trailers and caravans that are registered and are parked on council controlled land must not obstruct the clear view of traffic controls by a person on the adjacent road or footpath, or substantially interfere with vehicle or pedestrian use of Council-controlled land. -Registered trailers carrying what is defined as junk under the proposed local laws of 2019 must not be parked on council controlled land. - A person who is guilty of an offence under this Local Law must pay Council all reasonable costs incurred by Council in remedying the offence. Thank you for allowing me to put this submission forward. Regards [Redacted - personal information]. Ph. [Redacted - personal information]

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Sent: Thu 20/06/2019 11:58 AM

An important Council meeting procedure available at most if not all other local governments in Victoria is the Notice of Motion. This is not available to Councillors in Glen Eira. For transparency and appropriate Councillor representation a Notice of Motion must also be allowed in Glen Eira. Local Laws should be amended to include a Notice of Motion and if not, Council should clarify why it is appropriate that it is "out of step" with the rest of the state.

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Sent: Thu 20/06/2019 12:14 PM

The Public Question to Council section of a Council Meeting (i.e. written question prior to a meeting with the response to be included in the minutes), is currently one of the last items considered but it should be an Agenda item earlier in the Meeting. This is important to ensure appropriate accessibility to this process and also time certainty for residents.

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Sent: Tue 25/06/2019 5:17 PM

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This submission on the draft Local Law Meeting Procedures repeats many of the issues I have raised over the years, namely:

1. The absence of a Notice of Motion
2. The failure to ensure that agendas are made public 5 working days prior to meetings as recommended by the Ombudsman
3. The draconian insistence on a 150 word limit for public question plus the failure to record all questions in council minutes. Since public questions remain towards the end of the meeting, this requires residents to often sit through hours until their question is responded to.

Following on from the above, I ask council the following questions and would appreciate some answers:

- How does council justify that it is the only council in the state not to have a Notice of Motion? If the argument is that decisions may then be made in haste without officer input, then why not adopt the procedures that other councils (ie Kingston, Bayside, Moonee Valley to name just a few) have in place to avert any hasty decision making that lacks officer input?
- Why does council insist that residents have only 2 working days to digest an agenda which is often hundreds upon hundreds of pages? Why cannot council publish its agenda much earlier?
- Other councils see no issue in having public questions towards the start of the council meeting. Why does council insist that this occurs at the end of the public part of the meeting?
- Given that Public questions are supposed to be exactly that (ie Public) so that anyone interested may familiarize themselves with the issues that concern other constituents, why does council's Local Law refuse to include these queries from 'absentee' questioners in the ensuing minutes? How does this align with council's proclamation of pursuing full 'transparency' and 'accountability'?

In the accompanying Community Impact Statement the *Guidelines for Local Laws Manual* is quoted. Part of this quote states: *the local community should be involved from the commencement of the law making process, **not just at the final formal submissions stage under section 223 of the Act***. Council then goes on to state: *Feedback on the operation of the current Local Law from the local community was considered in the early phases of the review and in the drafting of the proposed Glen Eira City Council Meeting Procedure 2019 (proposed Council Meeting Procedure).*

My questions relate to the above:

- Is this not the first time that the community at large are being asked for their feedback? If so, how does council reconcile this with the Manual's recommendation that residents be involved 'from the commencement of the law making process'?
- When was the stated 'feedback' from the 'local community' sought and what changes (if any) resulted from such feedback in relation to the Meeting Procedures?
- When council refers to the 'local community' does this include only certain sectors of the community, or the community at large?
- Was any of the 'feedback' sought directly related to Meeting Procedures? If so, what was this feedback? And was this a result of questions asked by council? If no feedback was

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received relating to the Meeting Procedures, then why is this paragraph included in the Community Impact Statement that is intended to relate specifically to Meeting Procedures?

Redacted - personal
information

[Redacted]

[Redacted]

PHONE: [Redacted]

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Chief Executive Officer
Glen Eira City Council
PO Box 42
CAULFIELD SOUTH VIC 3162

Dear **Redacted -**,

I write you to provide feedback and make recommendations regarding the proposed Glen Eira City Council Local Law 2019. As a recreational drone owner, (and CASA RePL, i.e. licenced drone pilot) the particular section of the local laws that I am concerned about is:

Part 5 – Public Reserves

PART 5 - PUBLIC RESERVES

Introduction: This Part aims to provide for the responsible management of Public Reserves so as to enhance the enjoyment of them by the local community.

In this Part:

Model Aeroplane, includes any airborne device that is similar to a model aeroplane and which is powered, such as a drone.

22. Motor vehicles in Public Reserves

- (1) A person must not, without a Permit, ride, drive, stop or park any motor vehicle in a Public Reserve except in an area designated for motor vehicles.
- (2) Subclause 22(1) does not apply to:
 - (a) Council Motor Vehicles; and
 - (b) a motorised wheelchair used by an injured or mobility impaired person.

Penalty: 6 Penalty Units

23. Model Aeroplanes in Public Reserves

A person must not, without a Permit, fly or permit to be flown any Model Aeroplane in a Public Reserve.

Penalty: 8 Penalty Units

My submission seeks the removal of point 23 from this proposed local law.

Council may not be aware of the Civil Aviation Safety Authority (CASA), the federal funded independent statutory (sole) authority for aircraft and airspace in Australia.

CASA's key role is to conduct the safe regulation of air operations across all of Australia, and to ensure that Australian airspace is administered and used safely.

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CASA have a national definition of a 'Model Aircraft' and [have existing rules in place for Flying drones or model aircraft recreationally](#).

Refer <https://www.casa.gov.au/sites/default/files/unmanned-aircraft-rockets-model-aircraft-advisory-circular-101-03.pdf> section 3 Page 6.

Accordingly, as CASA is the national authority for airspace safety and the use of all aircraft, there is no need for Glen Eira City Council to burden themselves with something that is complex and already defined and regulated at a federal level - indeed there is a real risk of creating duplication, confusion or even conflicting views, with no doubt well-meaning intent.

CASA's existing safety rules are designed to protect people on the ground and in the air. Screenshots of the rules are included below, and are provided for ease of reading so that you do not need to open all the links.

Flying drones or model aircraft recreationally


Drone registration and accreditation scheme


We're finalising plans for the scheme. No action is required at this time. [Read more about the proposed changes](#).

Our recreational drone safety rules are designed to protect other people in the air and on the ground.

You must not fly your drone in a way that creates a hazard to another aircraft, person or property, so follow our rules every time you fly.

These rules do not apply to all drone flyers. If you hold a [remote pilot licence \(RePL\)](#) and operate according to a [remotely piloted aircraft operator certificate \(ReOC\)](#) or have an authorisation from CASA, you will be exempt.

You'll find all of the drone safety rules, plus useful videos and resources, on our dedicated [Drone Flyer website](#) .



Model aircraft

Remotely piloted aircraft used for sport or recreational purposes that weigh 150kg or less are considered to be operating privately and are regulated by the provisions for model aircraft.

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The rules

- ▶ You must not fly your drone higher than 120 metres (400 ft) above the ground.
- ▶ You must not fly your drone over or near an area affecting public safety or where emergency operations are underway (without prior approval). This could include situations such as a car crash, police operations, a fire and associated firefighting efforts, and search and rescue operations.
- ▶ You must not fly your drone within 30 metres of people, unless the other person is part of controlling or navigating the drone.
- ▶ You must fly only one drone at a time.
- ▶ If your drone weighs more than 100 grams:
 - ▶ You must keep your drone at least 5.5km away from controlled aerodromes (usually those with a control tower)
 - ▶ You may fly within 5.5km of a non-controlled aerodrome or helicopter landing site (HLS) only if manned aircraft are not operating to or from the aerodrome. If you become aware of manned aircraft operating to or from the aerodrome/ HLS, you must manoeuvre away from the aircraft and land as soon as safely possible. This includes:
 - ▶ not operating your drone within the airfield boundary (*without approval)
 - ▶ not operating your drone in the approach and departure paths of the aerodrome (*without approval)
- ▶ You must only fly during the day and keep your drone within visual line-of sight.
 - ▶ This means being able to orientate, navigate and see the aircraft with your own eyes at all times (rather than through a device; for example, through goggles or on a video screen).
- ▶ You must not fly over or above people. This could include festivals, sporting ovals, populated beaches, parks, busy roads and footpaths.
- ▶ You must not operate your drone in a way that creates a hazard to another aircraft, person, or property
- ▶ You must not operate your drone in prohibited or restricted areas.

* Approval is generally linked to an approved model flying association and its members

Please respect personal privacy. Don't record or photograph people without their consent—this may breach state laws.

Important: tips for flying within the law

- ▶ There might be local council and/or national park laws prohibiting drone flights in certain areas.
- ▶ Research the area you plan to fly and contact your council or national park if you're unsure.
- ▶ Don't operate near emergency services aircraft – if you fly, they can't.

CASA also have their [“Can I Fly There” \(CIFT\) app](#) that Australian drone flyers are encouraged to check prior to each flight, to ensure CASA air safety rules are being complied with.

Can I fly there? app

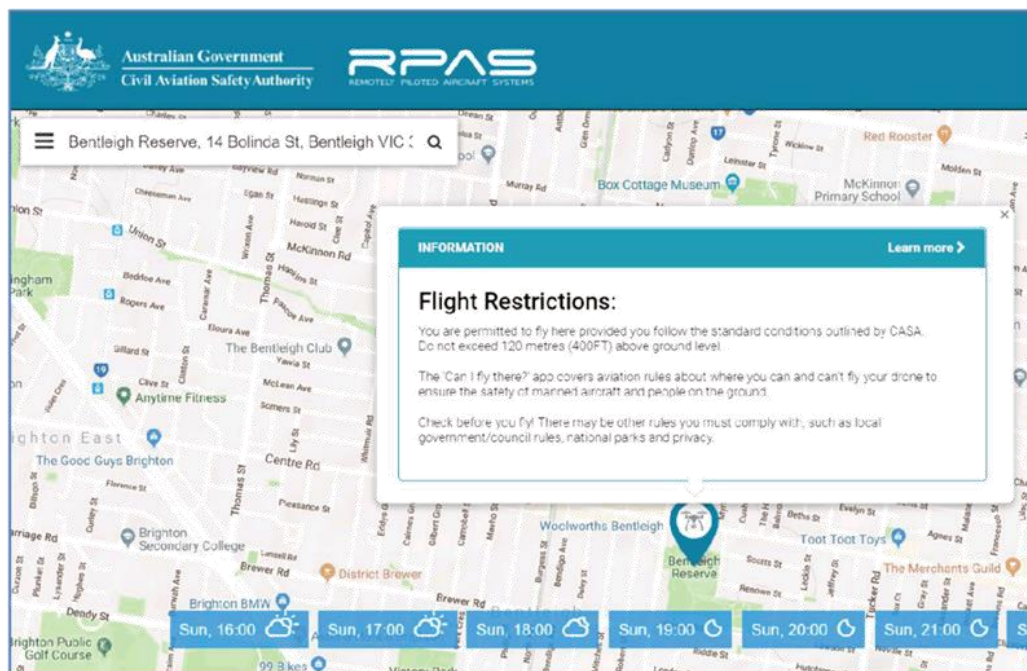
The 'Can I fly there?' drone safety app reflects the standard operating conditions for those flying their drone recreationally or commercially (under the excluded category of commercial operations) and is a valuable educational and situational awareness tool for drone flyers.

Download

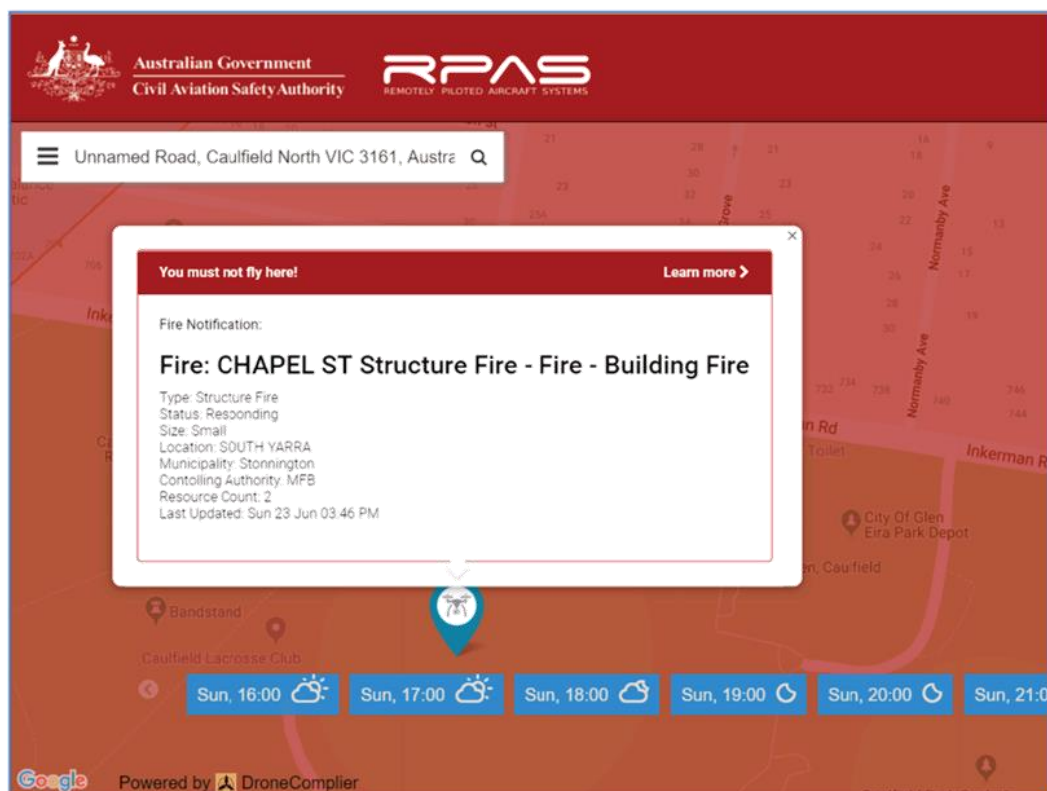


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This mobile application (app) makes it even safer as users are made aware of any airports, helicopter landing sites or temporary No Fly Zones due to fires or other emergency situations, such as the one shown in the example below. Whilst this temporary No Fly Zone is in place, it is not permitted to fly a drone in this area.



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Looking Forward – CASA and drone air safety

As of mid-2019, CASA is building a digital platform that will allow industry and other app developers to connect to and develop their own software apps. CASA is in the processes of approving an app to connect to the platform. This is expected to be live from early July 2019. A web-based version should be available late June 2019.

The 'Can I fly there?' app will be retired in the coming weeks but can continue to be used in the interim. The app will be removed from the app store after a short transition period.

As third-party apps are approved by CASA, they will list them on this webpage, with a link to the developer's website. In time, we as users can select which CASA-approved app meets our needs.

In the future, the new platform will also:

- integrate with our proposed drone registration system (*further details below*)
- allow licenced operators to submit flight authorisation requests
- automate approvals to operate within 3 NM of a controlled aerodrome, where safe to do so
- provide the building blocks for a future RPA traffic management system.

Later this year CASA is bringing in a (mandatory) Drone Registration and Accreditation Scheme. This will allow CASA to have a database of all drone users, and assist with managing pilots not doing the 'right thing' i.e. safety.

Drone registration and accreditation scheme - update

28 March 2019

CASA is planning to introduce a drone registration and accreditation scheme from later this year – but it has yet to be finalised.

This follows [consultation](#) with the community from 25 January to 22 February 2019, where we sought feedback on the details.

The proposed registration and accreditation requirements apply (with certain exceptions) to:

- drones more than 250 grams operated recreationally
- all drones operated commercially regardless of weight.

Key parts of our proposal were:

- flyers under 16 years of age need to be supervised by someone 18 or older who is accredited
- accreditation will be an online education course to make sure you know the rules - basically, watching video and answering a quiz
- registration for recreational flyers will be less than \$20
- for commercial flyers registration is likely to be from \$100 to \$160 per drone.
- CASA has yet to determine if you can register early or if there will be any leeway around the time of registration.

Keep up to date by subscribing to our [Remotely piloted aircraft systems \(Drones\) mailing list](#). If you fly for fun, make sure you know the rules at [Droneflyer](#).

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At the Drone World Congress in Shenzhen, China a few days ago, one of the keynote speakers indicated that more than 70% of the world's drones are made by DJI while in Australia the estimate is closer to 80%. DJI are working with CASA to implement systems to further improve safety. My understanding of this is that DJI will be able to restrict DJI drones from launching (taking off) if the operator has not passed an online education course test to ensure safety rules are known and understood.

As of 2019 CASA has advised it is also using new drone management technology known as DJI AeroScope. This allows them to locate DJI drones and their operators (whilst in flight) and the testing done so far has shown it to be able to effectively locate drones and their operators, and to fine offenders where appropriate.

DJI AEROSCOPE

While the popularity of consumer drones continues to increase, it has posed potential safety and security challenges for areas such as airports, prisons, nuclear power plants, and various government facilities and infrastructure. Traditional protections in these locations may not be able to adequately detect and monitor UAVs to prevent consequential incidents. AeroScope is able to identify the vast majority of popular drones on the market today by monitoring and analyzing their electronic signals to gain critical information, allowing users to protect the integrity of their flight-sensitive environment.



Overview

AeroScope is a comprehensive drone detection platform that rapidly identifies UAV communication links, gathering information such as flight status, paths, and other information in real-time. This monitoring data stream helps users make an informed response as soon as possible.

*Drone identification technologies are nascent and may be subject to various laws and regulations that continue to evolve. It is the customer's responsibility to comply with any applicable laws concerning the use of AeroScope within the jurisdiction(s) of operation.

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Related Council Experiences

You may be wondering what other Victorian Councils are doing on this topic.

As a resident in the City of Greater Geelong, it was brought to my attention by another drone flyer in the Melbourne Drone Flyers Facebook Group that Council had a permit requirement, like Glen Eira City Council. Like your Council, they were not issuing permits either. After a great deal of consultation with the City of Greater Geelong between January and April 2018, [Council started issuing free permits to fly from Council reserves](#). The permits were valid for a 12-month period. I worked with the Local Laws department at City of Greater Geelong Council to notify 7 drone related Facebook groups within Australia about permits being issued. As of 27/12/18 Council had issued in excess of 150 permits (since 17/4/18), [with no complaints or problems received to date](#).

On 6th April this year when my permit renewal came up again, City of Greater Geelong Council decided to make all new applications and renewals valid for 2 years.

CITY OF GREATER GEELONG Council ▾ Services and topics (A-Z) ▾ Geelong ▾

Council / Local laws /

Drones and/or remotely piloted aircraft


[Listen](#)


Our Neighbourhood Amenity Local Law 2014 requires that you obtain a permit to fly a drone or any remotely piloted aircraft within a municipal reserve.

All drones or remotely piloted aircraft operated under a Council permit must be done so in accordance with Civil Aviation Safety Authority Regulations (CASA).

More detailed information on these regulations can be found on the [CASA](#) website.

Documents

 Local Laws Drone RPA Permit Application Form (WORD - 90 KB) [Listen](#)

 Neighbourhood Amenity Local Law 2014 (WORD - 672 KB) [Listen](#)

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CITY OF GREATER GEELONG
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Drone Regulations

Listen

Thursday, 17 January 2019 5:25 PM

Director Planning and Development Gareth Smith:

Does the council have a local law provision that includes the operation of drones in residential areas e.g. over houses?

According to Local Laws, remote-controlled aircraft (including drones) are allowed to take off and land within a municipal reserve, subject to a permit.

Once in the air, regulating the activities of drones is the responsibility of the Civil Aviation Safety Authority (CASA).

If not, is this something the council would consider creating regulations for?

We are continuing to monitor drones in accordance with our responsibilities under current Local Laws and in co-operation with the aircraft regulatory authority, CASA.

How many complaints has the council received in the last two years about drone usage?
We have not received any complaints

What are the council's concerns about the operation of drones?

We will continue to exercise our responsibilities for managing drone activities under Local Laws, however the general operation and licensing of drones remains under control of CASA, as the regulatory authority.

The licensing conditions applied by CASA are aimed at protecting public safety and amenity.

I am part of the admin team of the **Melbourne Drone Flyers** Facebook Group. We are a state-wide group with currently just over 3,200 members.

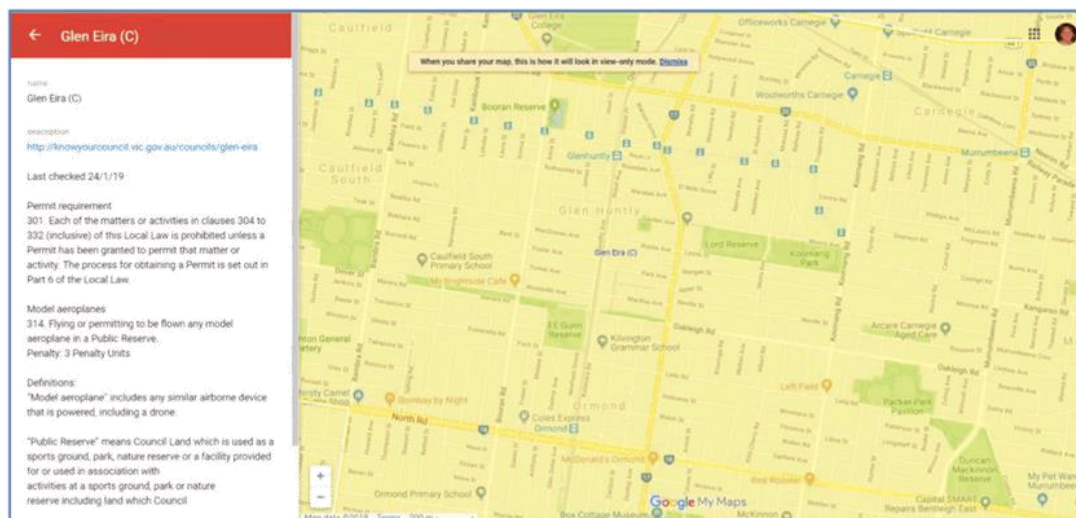
Our group encourages the safe and legal use of drones, following the CASA drone rules and the use of the Can I Fly There app.

We've created and manage a resource map together for our members showing each of the 79 councils in Victoria. These maps contain information on each Council and whether their local laws have anything relating to drones that our members need to be aware of to comply with.

In the few councils that have a permit requirement for flying, we make recommendations to our members to apply for permits if they want to fly / take-off / land within that council.

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There are only a few Councils where flying of drones is not permitted, being **Melbourne City Council**, who has a strict No Fly policy for recreation flyers, which is easily understandable, with frequent aircraft in the area and being a populous area. A permit is required in **Moonee Valley Council**, but flying is not recommended by the Melbourne Drone Flyers Group as it is primarily a No Fly Zone due to Essendon Airport.

The vast majority of Councils do not have a reference to drones or model aircraft in their local laws, however I have sought clarification of the local laws wording or Council website wording to maintain the resources map for Melbourne Drone Flyers Facebook group.

Knox City Council updated their website after I contacted them with a query.

Wanting to film with a drone?

Knox City Council has no role with providing permission for the use of drones, but we do recommend reading the information provided by Civil Aviation Safety Authority (CASA) at droneflyer.com.au. It is always important to comply with the relevant CASA requirements and be mindful of respecting personal privacy.

Photographing or filming a person without consent may breach Victorian State legislation.

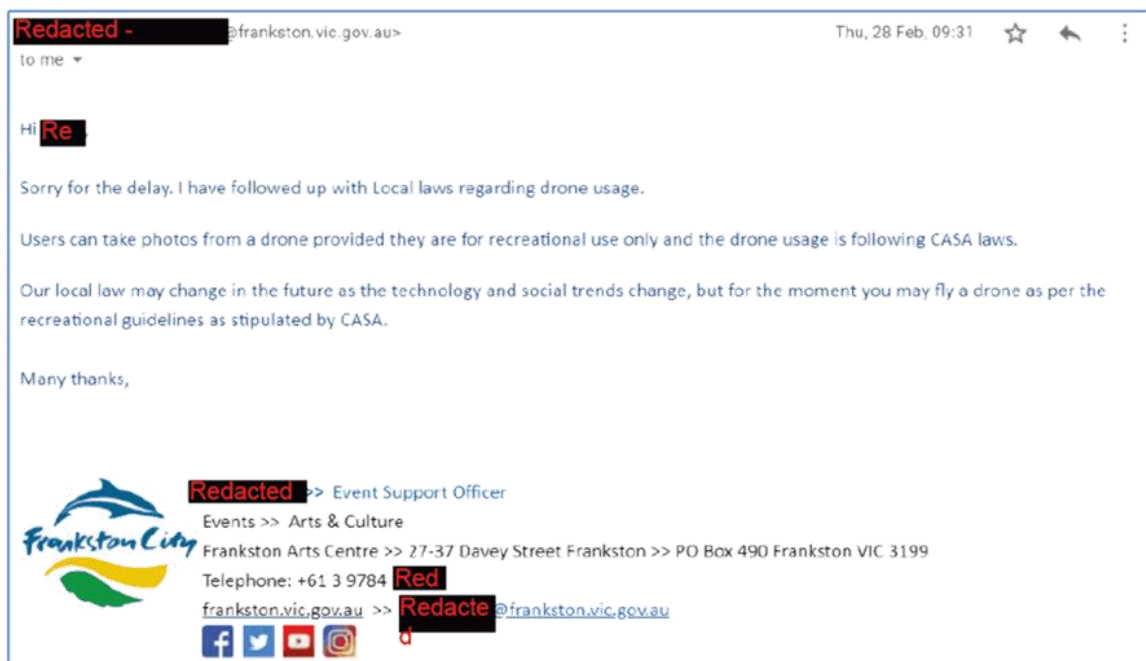
Pyrenees Council: Local law - [Adopted by Council on 19 February 2019, Commencement Date 7 March 2019.](#)

I sought to clarify some inconsistencies with their proposed local laws and with the information I provided, Council decided there was no need to include any restrictions on the operations of drones.

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Frankston City Council



Ballarat Council made new local laws in December 2017, only to suspend them and then [voted to remove the drone regulations from their local laws](#) on 4 April 2018 so that no permits are required. Operators need to abide by the CASA rules and regulations.



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Ordinary Council Meeting Minutes	4 April 2018
<p>9.2. LOCAL LAW AMENDMENT</p> <p>Division: Infrastructure and Environment Director: Terry Demeo Author/Position: Terry Demeo- Director Infrastructure and Environment</p> <p>Mr Luke Parker, Ms Rachael Bott, Ms Anne Preston, Mr Brett James, Mr Philip Rowse, Mr Andrew Greg and Mr Peter Risdale made public representations.</p> <p>RESOLUTION:</p> <p>Council resolves to:</p> <ol style="list-style-type: none"> 1. Adopt a modified Local Law to include: <ol style="list-style-type: none"> a. Modifications to Clause 15.2 such that no permit is required for burning outside fire restriction periods for properties within the farming zone and properties within the rural living zone that exceed 2 hectares in area. b. Remove: <ul style="list-style-type: none"> - Clause 66.1 (A person must not undertake any of the following activities on a Municipal Reserve without first obtaining a Permit): fly or allow to be flown any aircraft (including an RPA or any powered aeroplane but excluding a kite). - Clause 71 and 71.1 – A person must not, without a Permit, operate an RPA within 100 metres of an Event on Council Land or a Road within the Municipal district. 2. Publish the altered arrangements for burning in the rural environment for a consecutive period of a month in Council's noticeboard following the formal gazettal of the modified Local Law. 3. Formally engage with representatives of drone stakeholder group in developing the policy position for drone activity. <p>Moved: Cr Daniel Moloney Seconded: Cr Des Hudson</p> <p style="text-align: right;">CARRIED (R76/18)</p>	
<p>EXECUTIVE SUMMARY</p> <p>Following the adoption of the Draft Community Local Law 2017 report at the Council Meeting held on 13 December 2017, there has been further consideration in relation to the implications of the adopted Local Law as it impacts on the emerging industry/recreational use of drones and also in relation to the impact of the Local Law in respect to permits to burn impacting on farming practices and maintenance associated with rural living allotments.</p> <p>Having regard to the further consideration of these matters, it is recommended that the Local Law be modified to provide for a policy which explicitly states that a permit for drone activity is only required on public land where an event is underway and adopt a modified provision to allow burning in the farming and rural living environment in line with existing practices.</p>	
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<p>Ordinary Council Meeting Minutes</p> <p style="text-align: right;">4 April 2018</p> <p>Further, it is recommended that Council engage with stakeholders from the drone group in developing the policy position to inform Local Law operation.</p> <p>The modified provisions of the Local Law have been through a government gazette and local notification process with no submissions received.</p>	

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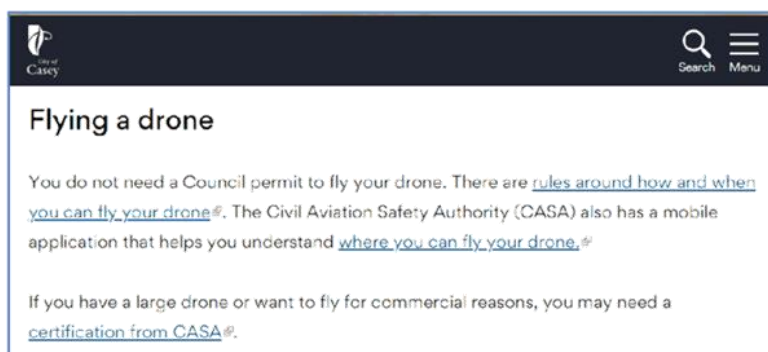
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Ballarat Council are not the only ones to modify their position and local laws when referencing drones. **Casey Council** updated their [local laws](#), making it a requirement that you needed a permit to fly a drone on private land.

47. Use of Drones on Private Land

- (1) A person must not, except with a **permit**, launch or land a **drone** on or from any private property.

[After consultation with the community Casey Council have since removed that requirement.](#)



The screenshot shows the City of Casey website. The header includes the City of Casey logo and navigation links for Search and Menu. The main content area is titled "Flying a drone". The text states: "You do not need a Council permit to fly your drone. There are [rules around how and when you can fly your drone](#). The Civil Aviation Safety Authority (CASA) also has a mobile application that helps you understand [where you can fly your drone](#)." Below this, it says: "If you have a large drone or want to fly for commercial reasons, you may need a [certification from CASA](#)."

[The Star News reported on 4/7/18, in part, regarding Casey Council's local laws:](#)

Casey's legal advice found it was likely that a court would find that the local law duplicated CASA's regulations, according to a council report in February.

"This does not invalidate the Local Law".

"It simply casts doubt on the enforceability of (the local law) in its current form."

Of note **Hobart Council** in Tasmania also have CASA as the regulatory authority.



The screenshot shows the City of Hobart website. The header includes the City of Hobart logo and navigation links for Search and Menu. The main content area is titled "Flying of Drones from or over City of Hobart public land". The text states: "The operation of drones (remotely piloted aircraft) must be undertaken in accordance with the rules and guidelines established by CASA (the Australian Government's Civil Aviation Safety Authority)." Below this, it says: "Please refer to www.casa.gov.au/rpa for further details or click on the below brochure for simple CASA guidelines when 'Flying your Drone for fun'." A brochure titled "FLYING YOUR DRONE FOR FUN? KNOW THE RULES-FLY SAFE" is displayed. Below the brochure, it says: "Rules and guidelines provided by CASA differ between recreational and commercial operators of drones, and differ in relation to the size/weight of a drone."

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Summary:

CASA as the responsible authority for air space safety and management have the power, expertise, funding and charter to investigate and fine drone operators who do the wrong thing. [There is a link on their website where breaches of the rules can be reported.](#)

The screenshot shows the CASA website's 'Report unsafe drone operations' page. The header includes the Australian Government logo and a search bar. A navigation menu lists various topics: Aerodromes, Aircraft, Airspace, Education, Publications and resources, Rules and regulations, Safety management, Licences and certification, and About us. The main content area is titled 'Report unsafe drone operations' and includes instructions on how to use the form, a list of safety breaches, and a section for reporting the nature of the incident. The 'Drones' category is selected in the left sidebar, and the 'Report unsafe drone operations' option is highlighted. The 'What was the drone doing? (mandatory)' section lists several options with radio buttons, including 'It was flying close to people', 'It flew over the top of me', 'It was flying near an airport', 'It was flying near a helicopter landing site', 'It was flying at night or in fog', 'I don't think the person flying the drone could see it', 'The drone was flying too high (above 120 metres)', 'Taking photos of me or other people', 'Flying too close to wildlife such as marine animals', 'It was noisy', and 'Other'. A 'Submit' button is located at the bottom right of the form.

Recommendation:

My recommendation for the Glen Eira local law review is to remove the reference to drones as the federal laws that are already in place through CASA are likely at best to be a duplication, at worst a contradiction and source of confusion. Importantly to this whole point is once any aircraft is in the air in Australia, it comes under (sole) CASA jurisdiction (except with some Department of Defence classified situations).

Council local laws are set for a period of 10 years. CASA has the authority to be able to update the rules in relation to aircraft and airspace (regularly, and they do) as required. For example - national drone CASA updates anticipated later 2019 – specifically registration, as referenced earlier in this submission.

I welcome any questions you may have about my submission and look forward to making an appearance at a Council meeting.

Thank you for taking the time to read my submission.

Redacted -

Submission 6 – Local Law Review 2019

Sent: Wed 26/06/2019 9:07 PM

Refine on local drone or recreation park new law summition.

Submission 7 – Local Law Review 2019

Sent: Thu 27/06/2019 11:20 AM

I wish to make a formal written submission to have Part 5, Clause 23 of your proposed Community Local Law [which states 'A person must not, without a Permit, fly or permit to be flown any Model Aeroplane in a Public Reserve'] deleted for the following reasons: The Civil Aviation Safety Authority (CASA) is the Federal Statutory Authority for air space and air safety. CASA already have drone rules in place that are designed to protect other people in the air and on the ground. These can be found at <https://droneflyer.gov.au> for your information. CASA's rules can be updated as often as needed without changing laws. CASA is bringing in a drone registration and accreditation scheme. Accreditation will be an online education course to make sure drone flyers know the rules. The Can I Fly There app shows Australian sub 2kg drone flyers where they can and can't fly their drone. It highlights controlled airports, helicopter landing areas, restricted airspace, danger areas, and includes the drone standard operating conditions. The app will be replaced later in the year, with a new digital platform further improving safety. This same proposal was put to my local Council, the City of Casey who in turn removed their proposed requirement for a council issued permit for drone use in the City of Casey from their local laws. I believe other Councils have also followed suit. A lot of other Councils in Victoria have no reference to drones at all in their local laws, just a reference for drone operators to fly by CASA's rules, as again, CASA is the statutory authority implementing rules for drone use. Unsafe drone activities are reported through CASA's website, therefore negating the need for Council to be involved with monitoring illegal drone activity or checking on permits. Everyone should have the right and freedom to use Council land without the need for a Council issued permit. Drone batteries only last a short time, so drone operators aren't in any one one spot for extended periods of time. Sporting ovals, when not in use, make great open spaces where people can fly their drone safely when training. The issue of privacy is understandably an issue for a lot of people, but everyone flying a drone is bound by CASA's rules which are there to protect the privacy of others. Most recreational drone use is for taking landscape photos, not peering over their neighbour's fences as the perception of some seems to be. I do not believe there should be more than one statutory authority making different rules for drone use, it just becomes too confusing, and then becomes a matter of which statutory body has the statutory authority over the other. I hope you will take all of the above into account and request again that Part 5, Clause 23 be removed from your proposed Community Local Laws.

Submission 8 – Local Law Review 2019

Sent: Thu 27/06/2019 8:59 PM

As part of the process to change the local laws I would like to point out the following in relation to the planned restriction to drone flying: · The Civil Aviation Safety Authority (CASA) is the statutory authority for air space and air safety · CASA already have drone rules that are designed to protect other people in the air and on the ground. · CASA's rules can be updated as often as needed without changing laws. · CASA is bringing in a drone registration and accreditation scheme. Accreditation will be an online education course to make sure you know the rules - basically, watching video and answering a quiz · There's the Can I Fly There app for showing Australian sub 2kg drone flyers where they can and can't fly their drone. It highlights controlled airports, helicopter landing areas, restricted airspace, danger areas, and includes the drone standard operating conditions. The app will be replaced later in the year, with a new digital platform further improving safety. · Councils such as Ballarat, Casey and Wyndham have removed a permit requirement for drone owners from their local laws. · A number of other Councils in Victoria have no reference to drones in their local laws or only require drone operators to fly by the CASA rules · Unsafe drone activities can be reported through CASA's website · All users should have the right to use Council land without the need for a permit. · Our batteries only last a short time, so we aren't in any one spot for extended periods of time. · Sporting ovals make great open spaces where you can safely fly when training and games aren't being played.

Submission 9 – Local Law Review 2019

Sent: Wed 3/07/2019 3:03 PM

Changes to consider- Local Law Glen Eira 2009, Review 2019

Redacted - 03/7/2019
personal

Melbourne City Council has three new Local Laws proposed.

Bayside Council describes their Local Laws, as policies.

Suggested updates to Local Laws:

1. Flood mitigation laws that include Water Sensitive Urban Design as clearly described in the Elster Creek Report which includes extensive research by Hansen Partnership Pty Ltd.

2. Height and quality sustainable design standards for new buildings on re developed sites

“Policy statements must be supported by strong regulations that leave no doubt where development can occur, and what height, design and heritage standards prevail” (Buxton, Goodman & Maloney 2016)

Particularly transition height zones (a clear policy with laws for heritage and new developments,) quality of building that manages air leakage and completely avoids the use of toxic flammable materials (cladding), set-backs, landscaping, natural ventilation, natural light and views, eight-star energy efficiency or better, disability access.

Submission 9 – Local Law Review 2019

Sent: Wed 3/07/2019 3:03 PM

The London Plan has Standard 35 (and policy 5.2) for energy and Co2. A three-step energy hierarchy for developers to guide them on how they may design low or zero carbon development. (Revised alterations to the London Plan 2013)

Energy performance certificates, for new builds on redeveloped sites will contribute to monitoring this energy efficient standard in Glen Eira.

Adopt the car parking standard of 10 per cent of all spaces must be for electric vehicles.

Update residential building types to include a policy for social housing with generous floor plans for a family.

3. An enforceable mandatory regulatory system that protects heritage buildings particularly in General & Residential zones.

4. A tightening of regulations where minor / through road widths are reduced to one lane for too long. A new regulation is required that puts a parking time limit on oversized vehicles or containers and trailers. One month maximum to maintain safety, liveability and wellness.

Meeting Procedure change - The Order of Business

Consider combining 228 Public questions with 230 Public Participation so that the Public questions begin just after 8.2.1 Records of Assemblies of Councillors on the current GE

Submission 9 – Local Law Review 2019

Sent: Wed 3/07/2019 3:03 PM

Agenda. This brings participation & consultation with the community to the reasonable time of 7.50pm. Consider a new time allowance of twenty minutes.

Submission 10 – Local Law Review 2019

Sent: Wed 3/07/2019 10:32 PM

I am writing in regard to the proposed animals and birds component of the community local laws 2019. For over 5 years we have had a problem with the neighbour to the rear of our property keeping over 150 pigeons on his property. These pigeons defecate over our back garden, our property, the footpaths, the local primary school and pose a public health risk by potentially carrying disease and impact dramatically on our amenity and that of the neighbourhood. While I am glad the council is giving consideration to the keeping of birds, the proposed laws do not go far enough and will be extremely difficult to enforce. 1. A person can still keep up to 20 pigeons WITHOUT a permit. Requiring a permit would provide for better education and regulation of birds on a property. For example, the owner of the pigeons to the property to the rear of us simply says "I only keep 20, the others just come along - prove I keep more than 20". The opportunity to address this issue through a registration system has been lost under the proposed laws. 2. The laws would be better strengthened by a definition of "impact on residential amenity". What does that mean? Does having bird faeces all over your property from a neighbour keeping pigeons as we currently have count? How about faeces all over the local primary school and footpaths? 3. Point 62. says - there is a penalty if there is "a loss of or an adverse impact on the residential amenity of neighbouring or nearby Properties." But the definition of what that loss is explicitly does not consider faeces left on a neighbour's private property - as we consistently experience, or as mentioned in my point 2 - faeces over local facilities such as footpaths and local school. 4. Point 64 relates to the feeding of birds - pleasingly a penalty can be issued for the feeding of any bird that - (3) that bird is not ordinarily kept on the land; and (4) the circumstances in which the bird is fed is likely to or does— (a) damage property; or (b) interfere with the material comfort of any other person; or (c) interfere with the enjoyment by any other person of his or her land. But there is no mention of how it will be proved that any of these impacts have taken place from feeding birds. Currently this burden lies largely with local residents to find proof - similar to asking the victim of a crime to prove it happened. What steps will council take? The danger is of a good law that cannot be enforced. 5. Similarly how will council prove that an individual keeps more than 20 pigeons on a property?

Submission 11 – Local Law Review 2019

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Sent: Thu 4/07/2019 7:56 PM

Graffiti Rubbish Footpaths Building applications Safety

Submission 12 – Local Law Review 2019

Sent: Thu 4/07/2019 8:08 PM

1. Our council agendas are made available by noon on the preceding Friday, other councils have a 5-working day lead time, I think that the lead time for council agendas to be available should be lengthened to 5 working days before the scheduled meeting. 2. Written Public Questions to Council should occur immediately after public participation at the early part of the meeting. And importantly, if the person is not present, the question should still be read out and the answer also read out so that we all gain the knowledge from the response, and the answer is then also available through the web recording. 3. Building Site Management Code of Practice, a link to the building regulation (hours of operation etc,) for all/each development should be readily available, perhaps on the front page of the website please, along with other information relevant to adjacent properties. 4. Nature Strip Guidelines - please could we have an info sheet for this including the dial before you did contact, now that we have a broader array of plants that we can plant. 5. Please include in each months council agenda doc a list of proposed developments under consideration by officers, with the address, planning ID number, build height, number of apartments etc that do not come to council for voting each month, so that residents can keep up to date with their community

Submission 13 – Local Law Review 2019

Sent: Fri 5/07/2019 5:50 PM

According to the proposed Local Law, it is an offence for an individual not to be carrying a bag for the disposal of dog faeces. I respectfully suggest that Council does not have the power to enforce such a law or even demand that a person empty his/her pockets. Apart from the fact that the animal may have already defecated and the faeces been legally placed in a bin, the failure to carry a bag is not evidence of any future offence relating to the failure to pick up after one's dog.

More importantly, the Local Government Act, under Section 224 specifies precisely the powers of authorized officers. They are empowered to only ask for names and addresses. They cannot ask anyone to empty their pockets or perform a body search.

Please remove this clause from the draft Local Law.

Section 224(6) Local Government Act, 1989

For the purposes of this section, an authorised officer may demand the name and address of a [person](#) who has committed, or who the authorised officer reasonably suspects has committed or is about to commit, an offence against any Act, regulation or local law in respect of which he or she is appointed.

Redacted - personal
information

[Redacted]

[Redacted]

Phone: Redacted
personal

Submission 14 – Local Law Review 2019

Sent: Sun 7/07/2019 8:21 PM

I understand the council is considering allowing the burning of open fires. This would in contradiction to recommendations from the Lung Foundation Australia, Asthma Council, Lung Health Research Centre of the university of Melbourne and Peter MacCallum Cancer Centre and the World Health Organisation. Fires produce small particles which can travel several hundred metres. When inhaled they cause systemic inflammation and have a causal association with asthma, lung cancer, heart disease and type 2 diabetes (the particles absorb into the blood stream to affect all organs). The program rolled out in Launceston, Tasmania to reduce wood fire smoke was associated with reductions in hospital admissions and mortality over winter. The evidence that supports these causal impacts is very robust and supported by twenty years of epidemiological research. In contrast, the evidence to suggest there is some beneficial health benefit of open fires is not robust nor has a causal positive association been established. Children are the most vulnerable to the health impacts of fires, and should this law be passed it will be to their detriment, along with the rest of the community. Australia already has the highest prevalence of childhood asthma and this should be closely considered along with the recommendations of the organisations listed above. Over 3000 deaths in Australia annually are attributed to Particulate matter from combustion sources. Before passing this law councillors should consider two questions: 1. Would they be comfortable with passing a law for no seat belts in Glen Eira? 2. Would they comfortable with allowing residents to pump asbestos over their neighbours fences? These are reasonable comparisons as particulate matter contributes to more deaths in Australia than our road toll and it has been categorised as a class 1 carcinogen placing it in the same category as tobacco and asbestos. Kind regards Redacted - personal Honorary research fellow (UoM)
B.Pharm, PhD student (Redacted - personal information)

Submission 15 – Local Law Review 2019

Sent: Sun 7/07/2019 8:29 PM

Dear Council I would like to provide comment on clause 38 of the proposed local law. I have family and friends in the Glen Eira municipality and I think making a law to allow people to light fires in their backyards is very concerning. There is indisputable evidence of the health and environmental harms of particle pollution from burning of wood (particularly the harms of PM 2.5). This law will give people the green light to pollute themselves and their neighbourhood, worsening the air quality in Melbourne and contributing to strokes, heart attacks, asthma attacks, dementia and more. I implore the Council to consider the health of the community and look at the evidence for particle pollution before making this law. I understand that people enjoy sitting around an open fire - but this should not be the basis for making this law - it must be about the scientific evidence and the broader health and wellbeing of the community. I ask the Council to instead to consider educating people about healthier ways of enhancing their wellbeing. Regards

Redacted
personal

Submission 16 – Local Law Review 2019

Sent: Sun 14/07/2019 4:11 PM

s76(1) is very vague in relation to the legitimate use of a Parking Permit. "Legitimate" must be expressly defined. I would suggest something like: A legitimate user of a Parking Permit is the person in control of the vehicle who lawfully enters a dwelling on a property situated in the place specified by the Parking Permit. s77 is very poorly drafted and the penalty for infringement is far too high. This section must specify exactly what the conditions of a permit are. The section must specify exactly what constitutes offending. The infringement must include "mens rea" to constitute offending i.e. The offending must be wilful. The physical parking permit must not be manufactured / constructed / displayed /used in such a way that it would entrap the person in control of the vehicle to commit an offence specified in state legislation. The current Parking Permit breaches Road Safety Road Rules 2017 s297(2); VicRoads Vehicle Standards Information 29 and the Australian Design Rules mandates placing an item like the visitor permit is unlawful. The Visitor permit would also render the vehicle un-roadworthy per the Road Safety Act 1986 as amply publicised by VicRoads in Testing Times issues 23 & 24. A person in control of a vehicle in Victoria is defined by Common Law as someone who is in the vicinity of a vehicle (3 metres distance to the vehicle is explicitly regarded by Statutory Law as being sufficient, although greater distances are possible) and has the means to lawfully open the vehicle.

Submission 17 – Local Law Review 2019

Sent: Sun 14/07/2019 6:57 PM

27: Organised Social and Sporting Activities.

Given the dramatic change in Glen Eira as multi-level developments are arising all over our city, we would expect our Local Council to make provision for the increasing numbers of children who will reside in small apartments with no access to outdoor playing areas. The apartments that are fortunate enough to have small balconies, are certainly not large enough for children to play ball games. To impose a fine on parents organising informal kick-to-kick, or four a side soccer, as they try to ensure their children are able to exercise outdoors is unconscionable. In the past, this law may well have served a purpose as all children had access to front and back gardens. In this age of 24 hour technology and rising levels of obesity in children of all ages, it would appear immoral to renew a law that imposed a penalty on parents who are trying to provide an important component of childhood-children need to be outdoors for their mental and physical health. Consider the situation as if you were a parent in an apartment with 2 children who did not have access to space outdoors to run and play.

Glen Eira City Council needs to plan sufficient parks and open spaces to accommodate all the children who will live in the high rise apartments: this is your responsibility. Plan accordingly.

Submission 18 – Local Law Review 2019

Sent: Sun 14/07/2019 7:31 PM

27: Organised Social and Sporting Activities.

Given the dramatic change in Glen Eira as multi-level developments are arising all over our city, we would expect our Local Council to make provision for the increasing numbers of children who will reside in small apartments with no access to outdoor playing areas. The apartments that are fortunate enough to have small balconies, are certainly not large enough for children to play ball games. To impose a fine on parents organising informal kick-to-kick, or four a side soccer, as they try to ensure their children are able to exercise outdoors is unconscionable. In the past, this law may well have served a purpose as all children had access to front and back gardens. In this age of 24 hour technology and rising levels of obesity in children of all ages, it would appear immoral to renew a law that imposed a penalty on parents who are trying to provide an important component of childhood-children need to be outdoors for their mental and physical health. Consider the situation as if you were a parent in an apartment with 2 children who did not have access to space outdoors to run and play.

Glen Eira City Council needs to plan sufficient parks and open spaces to accommodate all the children who will live in the high rise apartments: this is your responsibility. Plan accordingly.

Submission 19 – Local Law Review 2019

Sent: Sun 14/07/2019 7:31 PM

Council Meeting Procedure 32: Order of Business

1. Questions from residents without written notice appears to be omitted from this document.

Residents of the City of Glen Eira need to be able to raise urgent matters with their Councillors.

Questions without notice has been scheduled as an early item on the agenda. Why has this been omitted from the proposed Council Meeting Procedure?

2. In the proposed Council Meeting Procedure, the written public questions to Council has remained as a late agenda item-10.4. Many Councils have changed their order of business to ensure that the written questions to Council are available to all. Many residents are unable to travel late at night, this may well include the elderly or the disabled. Many young parents would welcome the opportunity to present a written question to Council, and would be able to do so if the written questions were scheduled as a item early on the agenda.

Many Councils around Melbourne have changed their Order of Business to ensure that their residents have the opportunity to present questions to their Council. Is there any reason why Glen Eira can not follow their example?

Submission 20 – Local Law Review 2019

Sent: Mon 15/07/2019 3:17 PM

Dear Councillors,

I will not comment in detail on Council Meeting Procedure 2019, except to say the use of Council Seal is a serious matter for consideration; it goes to some of my ongoing concerns re transparency and accountability to say the least. The requirement of consistency of policy & practice seeking integrated policy i.e. so as not to disadvantage specific population groups; decisions are for Councillors as it is their responsibility to be informed hence stand by their decisions.

For example:

- * the Customer Satisfaction Survey - report in Mayor's column was a lot of waffle! How is this measured? By whom? When? etc. etc. Many community orgs (public and private) have a 20 sec. customer survey to follow telephone call e.g. PTV, Ambulance Victoria. Good data, correlated and accurate.
 - * mechanisms such as GE Community Voice use community resources; how about giving residents some summary information - albeit that this is skewed, available to those who are time rich and computer literate. How is the gap accounted for?
 - * community feedback/response not treated with respect, is my observation; Toy Library comment by Mayor seemed questionable - at the implementation stage? surely, that is too late, goes against all the simple principles of planning. Dare I say, why is there not a Toy Library in each Ward - operating like a library with toys being able to be reserved etc
 - * what was the rationale in decision to not produce the Glen Eira in Focus or the Glen Eira Resource (although I can understand the latter), I do believe that the GE in Focus is a tool in community engagement.
- Community Local Law 2019 - issues affecting the municipality
- * yes, there could be some pro active education on bird feeding.
 - * building site management..... even more dire is the management of vacant blocks (I have contacted Minister Wynn office re the blight on our community).
 - * sportsgrounds allocations how about having an audit of all community facilities e.g. Senior Citizens
. Ge needs to have clear policy and practice of how, why and by whom these resources are used. All this data is useful and indicates the gaps and opportunities to look more closely.
 - * last but not least waste bin collection.... we have a significant number of tenants in GE, often quite unengaged- it would be useful for GE to make some policy to engage RealEstate Agents and/or Owners Corporation to emphasise the implications. Draft Community Local Law :

Regards,

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Submission 21 – Local Law Review 2019

Sent: Mon 15/07/2019 10:40 PM

I am a senior rural generalist doctor in East Gippsland and vice president of Rural Doctors Association Victoria. I am writing to express my significant concerns about Item 38 in Part 7 of your proposed Community Local Law. The exemptions you suggest for subclause 1 'Lighting Fires' are entirely inappropriate and will serve to harm the health and amenity of the residents of Glen Eira. I am very familiar with the issues around wood smoke and fires as it is one which affects my rural community significantly, though awareness of the problem is very limited. Biomass burning and wood smoke are known to be a health hazard. There is an extensive evidence base associating it with a broad range of harms - much broader than any of us would previously have imagined. Wood smoke is associated with heart disease, lung disease, various cancers, cognitive impairment in children, increased incidence of diabetes and dementia - the list goes on. Please note the following references:
<https://woodsmokepollution.org/references.html> It is unacceptable for Glen Eira Council to do anything to facilitate biomass burning. On the contrary, Council must act to restrict and shut down sources of woodsmoke wherever possible. I trust that you will make the right decision for the health of local residents. Yours sincerely Dr Redacted MBBS BA JCCA
FACRRM personal

Submission 22 – Local Law Review 2019
Sent: Wed 17/07/2019 4:02 PM

Australian Air Quality Group (AAQG)

Glen Eira City Council Community Local Law 2019 (proposed Community Local Law), Part 7,
Clause 38.

CURRENT LOCAL LAW requires a Permit for

306. Lighting a Fire or allowing it to remain alight in the open air on any land except in a Barbecue or for the purpose of religious practices - <https://www.gleneira.vic.gov.au/media/4244/local-law-2009-august-2016.pdf>

PROPOSED LOCAL LAW

38. Lighting fires

(1) A person must not, without a Permit, — (a) light any Fire; or (b) allow any Fire to be lit; or (c) allow any Fire to remain alight — in the open air on any land.

(2) Subclause (1) does not apply to a— (a) Barbecue; or (b) fire pit, brazier or chiminea on any private land in a Residential Area.

(3) A person must not allow any Barbecue or a fire pit, brazier or chiminea on any private land in a Residential Area to discharge any dust, grit, ash, smoke, effluvium, substance or odour that constitutes a nuisance or is an unreasonable interference with the amenity of any other person - https://www.gleneira.vic.gov.au/media/4239/community_local_law.pdf

AAQG SUBMISSION



Clause 38 of the proposed local law is inconsistent and contradictory because emissions from fire pits, braziers and chimineas contain many known human carcinogens and can pose a serious threat to the health of people living nearby. The image above compares emissions from burning 1 kg wood in a modern wood stove with those from exposure to second-hand smoke. Emissions from fire pits, braziers and chimineas are expected to be equally hazardous to health.

Submission 22 – Local Law Review 2019
Sent: Wed 17/07/2019 4:02 PM

Wood smoke is known to exacerbate and cause illnesses including asthma, pneumonia, Chronic Obstructive Pulmonary Disease (COPD), other lung and heart diseases, cancers and type 2 diabetes. The fine particles in wood smoke are known as PM2.5 (because they are less than 2.5 millionth of a metre). They are so small they pass into the blood stream and are transported to all organs of the body, causing inflammation and disease. PM2.5 can be lodged in the brain, affecting brain function including the development and behaviour of children. PM2.5 exposure during pregnancy is known to be a risk factor for low birthweight, which can affect a child's development. This information is readily available on the internet from reputable sources including the WHO. Our website <http://woodsmoke.3sc.net/> contains a comprehensive collection of much of the readily available research. There are short informative videos in the right hand column of our news page from WHO, UNICEF, EPA NSW and Dr Jim Markos, Australian Lung Foundation. Doctors and Scientists Against Wood Smoke Pollution also have an informative well referenced website <https://woodsmokepollution.org/>

These harmful effects occur at **very low levels of wood smoke exposure**. Tasmanian researchers found that hospital admissions for heart failure (the leading cause of hospitalisation for adults aged over 65 years) started to increase as soon as woodsmoke PM2.5 from exceeded 4 ug/m3, which is a tiny fraction of the current Australian PM2.5 standard, and also much less than the pollution a firepit is likely to impose on a downwind neighbour.

Another Tasmanian researcher, Dr Fay Johnston previously described woodsmoke particles as worse than car exhausts. Canadian research found that when most of the pollution came from wood burning a 5 ug/m3 increase in PM2.5 pollution was associated with a 19% increase in the risk of heart attacks for people aged 65 and older, noting "the association was stronger when more of the air pollution came from wood burning."

A news report & 2 min video from Canadian BC News, Feb. 27, 2017 warned that: study links wood smoke to senior heart attacks. A New Scientist Report and Video warns: log-burning stoves are harming our health and speeding up global warming (Feb 2017). UNICEF's 170 sec video explains: What does Air Pollution PM 2.5 do inside children's body and brain?

Researchers studied 303,887 British men and women, with data on lung health gathered by physical examination and air pollution statistics geographically coded to the participants' home addresses. Each 5 ug/m3 increase in PM2.5 led to a decrease in lung function more than four times greater than the effect of secondhand smoke at home. It was equivalent to 29% of the decrease caused by current smoking and 65% of that caused by being a former smoker – see even Moderate Air Pollution May Lead to Lung Disease.

The "Growing up in New Zealand" study found that every additional modern woodstove per hectare increased by 7% the risk children under 3 would need hospital emergency treatment.

The abstract of a peer-reviewed journal paper shows, that in Sweden, exposure of just 1 ug/m3 of PM2.5 pollution increased the risk of dementia by 55%.

CONCLUSION

Council has a duty of care to inform and protect residents from toxic wood smoke air pollution. Unfortunately smoke does not have to be visible to be harmful, it can drift close to the ground where we are breathing, and can remain for long periods in cold or still weather. Wood smoke particles are so small that they behave like gases and (like the air we need to breathe) enter our homes even when all doors and windows are shut.

Council must take into account current knowledge on the serious health impacts of toxic biomass/wood smoke air pollution for which there is no safe level. Council must therefore act on its duty of care, inform the community about the hazards of biomass smoke and eliminate it from the environment (including burning of coal and wood products in barbecues, fire pits, braziers, chimineas, outdoor bread and pizza ovens).

Submission 22 – Local Law Review 2019
Sent: Wed 17/07/2019 4:02 PM

The local law in relation to domestic wood heating should also be reviewed because a major factor in setting current emissions standards was the profitability of the wood heating industry (which has been allowed to veto any changes that it doesn't like). The current level of emissions does not represent a safe level of pollution, but one that is expected to significantly increase the risk of health damage to people living nearby, with the most serious effects observed in young children and the elderly.

FURTHER INFORMATION

Clicking on the hyperlinks in the underlined will take the reader to the sources of the information, which can also be found as hyperlinks in the same text at <http://woodsmoke.3sc.net/children>

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Received: 18 July 2019

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Chief Executive Officer

Glen Eira Council

Glen Eira Town Hall

Corner Glen Eira Road and Hawthorn Road

Caulfield Victoria 3162

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information

Re: Proposed Community Local Law Submission 2019

The following is a short *submission* for consideration.

1. Current and Future Proof Test

- a. The Local Law is intended to span the next ten years. The Victorian Government *Guidelines for Local Laws Manual* best practice guidelines include a requirement for Local Laws to continue to be current (*currency*).
- b. Community expectations and the delivery of services does change within the ten years.
- c. The Council's operational changes within the next ten years may impact both process, contracts and revenue. Two oversights by local Councils include:
 - i. The management of subcontracting and outsourcing contracts (delegation of powers)
 1. Monash Council did not consider the legal rights and obligations intersection between subcontractors responsibilities and its Local Law resulting in the \$2.6m refund of parking fines.
<https://www.theage.com.au/national/victoria/council-to-refund-2-6-million-in-parking-fines-20190304-p511p4.html>

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2. Kingston Council did not consider the legal rights and obligations intersection between subcontractors responsibilities and its Local Law resulting in \$2.3m refund in parking fines collected over ten years (<https://www.theage.com.au/national/victoria/kingston-council-to-refund-2-3-million-in-parking-fines-as-legal-blunder-widens-20190306-p5121f.html>)

Consequently, to comply with the Guidelines for Local Laws, the Local Law should be reviewed to incorporate how the Local Law will remain (*continue to be*) current over ten years.

- a. Key Feature requirements of best practice are the need for a) *currency* and) *transparency* (Community Impact Statement – Proposed Community Local Law 2019 Part A – General Comments refers).

- ii. The next ten years is forecast to be a period of unprecedented change:

1. Biotechnology and artificial intelligence

- a. Who is the owner (in control of) of the dog if the dog walker is a dog walking robot or AI machine?
 - i. (Clause 60 Animal Litter definition if Litter Device would not apply)

2. Architecture

- a. Can a landing point of a Uber Flight Taxi be on a vehicle crossing, footpath, road or public park? Will there be prescribed landing places for taxi flights on Council land or on buildings.
 - i. Local Law may not apply to an accident caused by a Flight Taxi in a Public Reserve

3. Cars and Fuel

- a. Are electric car charging points to be on nature strips?
- b. Self-drive cars, trucks and automated services
 - i. Council drones monitoring parking and identifying dogs by their tags outside allocated adequate

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personal Bentleigh

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fencing (<https://casa.dronecomplier.com/external>)

- ii. Drone delivery of parcels and takeaway food to residential addresses and Council Parks

4. Urban Green Canopy

- a. Will Department of Environment, Land, Water and Planning (State) establish Urban Canopy coverage guidelines (inline with 2020Vision <https://2020vision.com.au/the-network/>) to intersect (or modify) with Planning Strategy Impacts on Housing and to meet other environmental obligations. Alternatively, will this emanate from the Department of Environment and Energy (Federal) to drive the commitment to meet the Paris Agreement Accord? <https://www.environment.gov.au/climate-change/government/international/paris-agreement>. Will trees become a higher valued Council asset because of political and social pressure and will trees need further protection by Local Law to maintain and increase planting trees to cool livable temperatures – to meet the other Council strategies.

5. Virtual Reality

- a. Community space hazards when connected to virtual reality
- b. Wireless electricity and its uses in and across public spaces
 - i. Local Law would not control this risk above roads and footpaths

6. High Rise Farms

- a. Farms on the top of buildings
 - i. Local Law defines Property: means any land in separate ownership or separate occupation.

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personal

- Bentleigh

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Understanding example, a four-storey apartment building may have 12 Property Owners, which makes Clause 58 *Keeping Animals* unworkable.

7. Onsite recycling

8. Shared Transport

a. eBike litter and abandonment in public places.

d. However, the *Local Law's* best practice should not pretend or second guess the future.

The Local Law must though have a mechanism to *keep up to date and to be current* – over the ten years – to remain relevant. Preferably Local Law is to be a living document. Clauses should be clear on how changes, expansion of terms and amendments will accommodate and manage change. On reading the Local Law, it does not appear to be a living document.

b. Suggestion:

- a. A responsible officer of each Council Department checks the draft Local Law against current services.
- i. The intent is to avoid like where services are planned (such as outsourcing) but the authority to apply a charge or fine is not by an Authorised Officer. Another example (a current conflict) is where proposed law for one purpose extends its reach into services already provided to the community. For example, a clause to make it an offence to place tables and chairs on footpaths currently conflicts where this is allowable under an existing service for hard rubbish collection.

2. The Guidelines for Local Law Manual

- a. The Victorian Government *Guidelines for Local Laws Manual* (160 pages) lists best practice guidelines for the creation and enforcement of Local Laws. Of note:
 - i. 4.3 The format of Local Laws – there is no set format for Local Laws
 - ii. The intention (appears to be) is to provide flexibility to meet the Community expectations for *clarity* and to provide *uncomplicated examples, references* and

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other detail.

1. Reading the proposed Local Law raised doubts about the clarity of several definitions and services. Some items were not clear- to a person who does work in the Local Council. A number have been listed in a table as an attachment.

3. Triangular Test of the Risk Management Approach between 1) Considered local impact, 2) Penalties; and 3) Other Local Councils comparisons.

- a. The Risk Management approach to Local Laws is written to have been completed based on the severity of the problem according to the offence frequency and consequences.
- b. The test with neighbouring Councils appears to be comprehensive. However, a test comparing proposed Glen Eira Council penalties (units) for each level of consequence has out-riders across each category (Insignificant, Minor, Moderate, Major and Critical). The Risk Management model vs the Penalty adopted appears not to be scaled to represent the severity of the risk.

For example:

Minor Rating		Moderate Rating		Major Rating	
Clause	Units Proposed	Clause	Units Proposed	Clause	Units Proposed
11	5	26	3	14	5
12	5	30	2.5	15	5
13	5	31	2.5	16	2.5
17	5	45	10	18	5
19	5	38	2.5	72	4
20	5	39	2.5	73	4
21	5	66	3.5	74	4
22	1.5	49	2	75	5
23	2	50	5		
24	2	51	3		
25	2.5	52	3		
29	2.5	46	5		
32	2	47	3		
37	3	48	3		
27	2	56	2		
28	2	57(1)	2.5		
33	5	57(2)	1.25		
34	2.5	58	2.5		
35	2.5	59	2.5		
40	2	61	2		

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42	4	62	2
44	2	63	3
43	2	60(b)	2
41(1)	2.5	60(a)	2
41(2)	2.5	60(c)	2
41(4)	4	64	2
53	2	65	2
54	2	67	3.5
55	2	68	3.5
76	1.5	69	2.5
77	1.5	70	2.5
		71	2

i. Minor Rating has a scale from 5 Units to 1.5 Units.

ii. Moderate Rating has a scale from 1.25 Units to 10 Units.

iii. Major Rating has a scale from 2.5 Units to 5 Units.

c. **Suggestion:**

i. The Risk Management grid be recalibrated and the Units allocated to a range that represents the Risk Grade. Where there is no alternative but to apply a lower Unit that is appropriate, then use of the *second and subsequent offence* approach as exemplified in Clause 55 would accommodate.

ii. The total revenue collected per risk grade be checked against projected revenues if the risk grades fall in response to the new Local Laws. A *weighting between the consequences of changing the Risk vs the Council Budget is essential for management of existing services.*

iii. **Opportunity:** To share this Risk Management approach with the Local Council Insurers to change the insurance (and cost) approach to risk-based and for the cost to Council be decreased where risk is appropriately managed.

4. Part 11 Animals and Birds

a. The appropriate keeping of many animals is covered under the Wildlife Act 1975 and Wildlife Regulations 2013 and policies, codes, statement papers, animal charters by Responsible entities, including the RSPCA. The promotion of physical health and an environment free from hazards is understated. The Department of Environment and Energy (Federal) has responsibility for the Environment Protection, and Biodiversity Conservation Act (1999) that confirmed the communities desire to protect wildlife from

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predation by feral cats is listed as a key threatening process under section 188 of Australia's national environment law. The National Declaration of Feral Cats as Pests agreed 16th July 2015 also had ministerial support efforts to undertake and promote responsible pet ownership and agreed to pursue the development of a national best practice approach to the keeping of domestic cats.

i. The Victorian Law Foundation

https://www.victorialawfoundation.org.au/sites/default/files/resources/Dogs_cats_neighbours_and_you.pdf records that curfews may be set by Councils

for cats also to support efforts to round up feral cats. Agriculture Victoria

<http://agriculture.vic.gov.au/pets/cats/legal-requirements-for-cat-owners>

records that if a cat wanders onto another person's property more than once, it may be seized and impounded. Council may issue an order to stop a cat trespassing and if the owner does not comply the owner may be fined.

- b. **Suggestion:** Local Law requires adequate fencing for dogs but is silent on suitable fencing or containment of cats at night in support of protection of animals, wildlife and birds or in line with the proposed National best practice of keeping domestic cats. Local Law to include a new section on the requirement to contain domestic cats at night.
- c. **Suggestion:** Where Local Law remains silent on cat containment, then a common approach is for the Local Law to insert a cat *Trespass and Nuisance* clause. If a cat wanders onto another person's property and a complaint received, the cat owner will be ordered to contain the cat. Future non-compliance results in the cat being seized and a fine.
- d. There is no mention of the keeping beehives where bees from multiple beehives can be present a community hazard.
- e. **Suggestion:** The keeping of Animals and Birds section be reviewed to include keeping conditions. For example, beehives limited to one or two hives per property.

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5. Damage to Council Assets

- a. Council Assets is included in the Local Law defined term and includes **trees, shrubs and other vegetation** within its definition. The Council Assets listed on its balance sheet include: Infrastructure Roads, Footpaths, Drainage, Open space and recreation Car parks, Streetscape works, – without a separate evaluation of tree assets. Trees do not appear to have a definitive asset value on the balance sheet.
- b. Glen Eira Council does not have a Classified (or Significant) Tree Register. Albeit, Classified/Significant tree registers are essential but is probably secondary to the urgency to increase the Urban Coverage given recent Urban Monitor reports where Glen Eira has lost 5% of its Urban Canopy in 4 years (refer d.) Glen Eira Council does not also appear to have a current asset tree register which records a value for its trees (assets). Many other Councils already have registers just for *significant trees* including City of Melbourne, Knox City Council, Bayside City Council, City of Port Philip. Stonnington City Council has General Local Law which protects trees.
- c. Limited tree controls apply: Heritage Tree control is in one place within Glen Eira Council (Glen Eira Planning Scheme Clause 43.01 Heritage overlay examples)
- d. At the 26th September 2018 Council meeting, a resolution was to: "commit to developing controls to protect trees ...". This guideline and maintaining a tree asset register with the measurements of Urban Canopy through provided CSIRO science is a better, quicker to implement and manageable approach than managing trees that are only specific Classified Trees. This approach can focus on maintaining (and growing) total **Urban Canapoy** coverage across Glen Eira Council.
 - i. <https://data.gov.au/data/dataset/street-and-park-trees> Australian Government data.gov.au offers a resource to map Glen Eira Council tree coverage
 - ii. The Department of Environment, Water and Planning is to release the reports in Attachment B, developed with the CSIRO, the Melbourne Suburban Heat

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Data Maps (Urban Monitor) listed by Council. The Department of Environment, Water and Planning has provided select Glen Eira Council data in support of this submission.

1. Glen Eira Council is on average **8.63 degrees Celsius hotter** than the non- Urban baseline land surface temperature
2. Summary of the statistics will show Glen Eira Council data:
 - a. 2014 tree canopy cover = 13.30%
 - b. 2018 tree canopy cover = 12.5%
 - c. Percentage point change in the tree canopy cover (2014-2018) = **-0.8%**
 - d. 2018 urban heat island reading = **8.63 degrees** Celcius **hotter** than non-urban baseline land surface temperature. **Hotter** than its neighbouring Councils, Bayside, City of Port Philip, Monash and Stonningham (refer Appendix B.2)
 - e. The 2014 baseline maps compared with 2018 maps show a **5% Urban Canopy loss for Glen Eira** in 4 years. (Reference Attachment B.
 - i. Bronwyn Fry – Principal Planner at DELWP – Vision202020 Docklands 11th July 2019. It is provided by Department of Environment, Land, Water and Planning in support of this submission).
- iii. The Council Law should provide little leeway for an owner or Building Activity who damages a tree, to replace a fully grown tree (of value x) with a seedling (of value x/100). This immediately decreases the value of the Tree asset and immediately decreases the Urban Canopy Coverage when that decrease could be avoided.
- e. **Suggestion:** Where the proposed Local Law refers to the replacement of any damaged tree, the Local Law redraft note that a *damaged tree* is replaced *with the same size tree, to the quality, value and variety nominated and acceptable by the Council.*

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1. The value to be equal to, or greater than, the same tree type (by size, age and variety) as recorded in the Tree Register by the Council.

- f. **Suggestion:** To match the Local Law to services and local assets, the Parks Department maintains a tree asset register – *at the high level* - to record the value of trees by type, age, size and health. **For clarity** – this register is *not on a tree by tree basis* per location, but a register of the variety of trees planted and the assignment of an asset value correlated to the age of the tree. A simple approach achieves more benefits to support control of Glen Eira's Urban Canopy objectives.
- g. The overall intent is to bring *trees* into view as important *asset value*. Trees are not just an expense. Trees form a large part of the Council's Open Space Strategy 8th April 2014 (yet five years later the Glen Eira Urban Canopy has decreased by 5%).

6. Conclusion

- a. The Local Law review process provides an opportunity for community involvement. Regretfully, this submission falls short of a complete review. However, it does call for clearer currency, transparency and redrafting of several clauses. Thank you for providing the opportunity to make this submission.

I trust these comments add to the Council's review process of the 2019 Community Local Law.

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Attachment A: Table of Clause Suggestions

Part One: Preliminary Provisions	
Clause	6.3 This Community Local Law does not apply to an Authorised Officer or a member of Council staff in the course of carrying out his or her authorised activities. 6.4 This Community Local Law does not apply to a person engaged to undertake any activity on behalf of the Council in the course of carrying out that activity.
Clarity	An Authorised Officer and Council Staff are exempt from the Local Law? The exempt activities are, in part, in <i>doing</i> authorised work. A person engaged to undertake any activity on behalf of the Council is exempt from the Local Law. These are extensive statements. Does this imply subcontractors are allowed to authorise fines or penalties if the Local Law does not cover them? Does this imply employees are permitted to complete authorised work but in a <i>manner</i> that does not adhere to Appendix One Guiding Principles Community Engagement Policy (adopted 17 th October 2017)?
Suggestion	Redraft: Incorporate the intersection and requirement for employees and other people engaged to adhere to Employee guidelines and policy principles or the Community Engagement Strategy 2018-2021 or its replacement policy. ReDraft: To provide clarity. "his or her" to be replaced. Guidelines for Local Laws Manual 4.10.2 – Plain English refers The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.
Part Two: Protection of Assets	
Referenced Clause	11. A person must not, without a Permit, cause or permit on land any— (1) tree to be planted; or (2) any filling to be placed— over an easement which exists in favour of Council.
Clarity Required	There are other evidenced items and structures that exist over easements. Even though other items may intersect with <i>building permits</i> , the objective is to make this easy to read and clear.
Suggestion	Redraft: To provide clarity, broaden the Permit requirement example to include: a) Structures (temporary or permanent) including glass or greenhouses or, sheds b) Water tanks
Referenced Clause	13. Damage, destruction or interference with roads (1) A person must not, without a Permit,— (a) damage, destroy or interfere with; or (b) procure or permit damage to, destruction of or interference with — a road, channel, Vehicle Crossing or road sign.

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Clarity Required	<p>It is not clear what part of the Council assets are included under the word road. Document inconsistency exists with the term road. In some instances, road implies the vehicle carriageway, and in other parts, it means the inclusion of the footpath and nature strip but not the vehicle carriageway.</p> <p>In some parts of the Local Law, reading the practicality of the use of the term road as a footpath or nature strip is nonsense.</p> <p>The Cambridge dictionary defines a road to be "a long, hard surface built for vehicles to travel along".</p> <p>The Road Safety Act 1986, Version 193 as amended 27th March 2019 notes: road means—</p> <p>(a) an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles; or</p> <p>(b) a place that is a road by virtue of a declaration under subsection (2)(a)—but does not include a place that is not a road by virtue of a declaration under subsection (2)(a);</p> <p>road-related area means—</p> <p>(a) an area that divides a road; or</p> <p>(b) a footpath or nature strip adjacent to a road; or</p> <p>(c) an area that is open to the public and is designated for use by cyclists or animals; or</p> <p>(d) an area that is not a road and that is open to or used by the public for driving, riding or parking motor vehicles; or</p> <p>(e) a place that is a road related area by virtue of a declaration under subsection (2)(a)—but does not include a place that is not a road related area by virtue of a declaration under subsection (2)(a)</p> <p>Local Government Act 1989 No 11 – Preliminary: road includes— (a) a street; and (b) a right of way; and (c) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958; and (ca) a public road under the Road Management Act 2004; and (d) a passage; and (e) a cul de sac; and (f) a by-pass; and (g) a bridge or ford; and (h) a footpath, bicycle path or nature strip; and (i) any culvert or kerbing or other land or works forming part of the road</p>
Suggestion	<p>For the avoidance of doubt as to what activity is allowed on the vehicle carriageway or the nature strip or the footpath the term road to be included in the definitions or cross-referenced to pick up the definitions in State legislation. Also, for the avoidance of doubt and to be consistent with State Legislation, the drafting should include definition and to apply the term road related area as per Road Safety Act 1986 (as amended). Following clarification of these definitions, all current instances of the use of road to be reviewed and amended where the term is currently, as drafted, relating to road related area – and made clear where the intent is describing a nature strip or footpath.</p>
Part 3 Building Activity	
Referenced Clause	<p>Building Activity, includes any work for or in connection with the construction, demolition, renovation, alteration, Repair, pulling down, relocating or removal of any Building or structure; and includes any change to the natural or existing condition or topography of land including but not limited to trenching, digging, excavating or filling whether by mechanical or manual methods and the loading or unloading of any goods or materials for or in connection with any building work.</p>
Clarity Required	<p>The term building work is defined in the Building Act 1993: building work means work for or in connection with the construction, demolition or removal of a building. The use of the term building work in the sentence ending "...unloading of any goods or materials for or in connection with any building work" may restrict the Council's intent to apply a broader definition under Building Activity.</p>
Suggestion	<p>Redraft of the definition of Building Activity to fully capture the Council's intent. Building Works (a connected definition) to include the use of electrical equipment. Such as on-site generators and alarms.</p>
Part 3 Building Activity	
Referenced Clause	<p>Building Activity Hours means the period between 7 am and 8 pm on any weekday or the period between 9 am and 6 pm on Saturday.</p>

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Clarity Required	For clarity, this definition should be expanded to note that weekdays exclude gazetted Public Holidays – such as Easter Friday, Christmas Day or Australia Day when they fall on a weekday. Item 62 – it is an offence for an animal to create "adverse impact" on Public Holidays outside of hours, but as currently drafted, the noise created by building activity could be deemed allowable?
Suggestion	Redraft definition to be consistent across other adverse impacted clauses. Clause 17 to be made consistent
Referenced Clause	14. Occupation of roads or Council Land (1) A person must not, without a Permit, occupy (whether wholly or partially) a road or Council Land— (a) for the purpose of carrying out any works or activity that involve— (i) fencing off part of a road; or (ii) erecting a hoarding, scaffolding or overhead protective awning; or (iii) using machinery for any Building Works including a mobile crane, scissor lift, forklift, boom, concrete line pump and tackle or hoist; or (iv) leaving or storing any building, paving or other construction materials or rubble or any tools, machinery, plant or equipment. (b) for any other non-road purpose.
Clarity Required	Dumpsters / mobile commercial bins, shipping containers and trailers are a constant source of traffic complaints and a danger for children. Machinery, plant or equipment are not listed as defined terms.
Suggestion	For clarity, the above definition should be expanded to include "dumpsters / mobile commercial bins, shipping containers and trailers". It is argued that an empty bin left on Council property is not machinery, plant or equipment.
Referenced Clause	18. Temporary Vehicle Crossings - The owner of the land on which Building Works have been carried out must repair at his or her own cost any damage to the road including the kerb, drains, street trees, footpaths, nature strip and any other part of the road caused by the carrying out of the Building Works to the satisfaction of Council.
Clarity Required	The obviousness of the intent should be made clear. Presumably, the intent is for Building Activity not to lose or damage any Council assets. In the event where damage or loss occurs, then replacement or repair is on a new for old basis - and to the Council's satisfaction. There also needs to be an emphasis on repairing, <i>to the Council's satisfaction</i> or replacing with <i>new</i> . An example being owners breaking stormwater pipes and repairing with any concrete filler. Stormwater pipes need to be sealed, and only new pipes would restore the value and the life expectancy of the pipes. It is not until the Council has approved and inspected any repairs/replacements that the amount owing can be finalised. Trees are Council assets and the Council Law is to provide little leeway for an owner to replace a fully grown tree (of value x) with a seedling (of value x/100). This approach supports the <i>urgent</i> need to improve the Urban Heat Map (decrease the heat results) coverage by the Urban Canopy. (<i>sourced: Department of Environment, Land, Water and Planning.</i>)
Clarity Required	Where the Council repairs damaged assets out of Council expenditure, there should be a penalty applied for late payment (similar to Clause 94 (e)) for infringement notices not paid on the due date – but <i>not taken to court</i> as the expenditure to the Council could initially be <i>significant</i> and recovery is required ReDraft: To provide clarity. "his or her" to be replaced. Guidelines for Local Laws Manual 4.10.2 – Plain English refers - The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.

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Suggestion	<p>ReDraft: State "must repair to its original state or replace new for old, at the owner's cost, any damage to the road including, but not limited to bitumen, kerb, drains, street streets...". Include "pipes" in the list as this includes pipes underground that are used for any purpose. Additional inclusion that if a tree is damaged that the tree is to be replaced with the same size tree, as the damaged tree, to the quality and variety nominated and acceptable by the Council.</p> <p>Redraft: Remove any mention of gender from the Local Law document. Replace "at his or her cost" with "at the owner's cost". Albeit repeats owner in the same sentence, it provides clarity. The owner may be a company, family trust, superannuation firm, cooperative, partnership, body corporate or a self-managed super fund etc.</p>
21 Polluting stormwater drains	
Referenced Clause	A person must not, without a Permit, cause or permit any substance, other than stormwater, to be discharged into the stormwater system.
Clarity Required	Direct roof stormwater is used to fill swimming pools. Note for clarity even water that is from swimming pools is not to then be released into stormwater drains. The swimming pool water is contaminated by chlorine and other chemicals which may be life-threatening to animals, vegetation and fish. Moreover, dangerous when swallowed by children. Substance is a defined term within the Road Safety Act 1986: substance means substance in any form (whether gaseous, liquid, solid or other) and includes material, preparation, extract and admixture.
Suggestion	Redraft for clarity to include: Any substance comprises for example, but is not limited to, swimming pool and spa water or any vehicle radiator water or other gaseous, liquids, solids or other, and includes material, preparation, extract and admixture.
22. Motor vehicles in Public Reserves	
Referenced Clause	(1) A person must not, without a Permit, ride, drive, stop or park any motor vehicle in a Public Reserve except in an area designated for motor vehicles.
Clarity Required	<p>Glen Eira Council publication parking and the law and you 2016 (refer below link) notes: Unless a sign says otherwise, you can park your bicycle anywhere as long as it's safe and not in anyone's way. Motorbikes and scooters: Unless a sign says otherwise, <i>you can park your motorbike or scooter on the footpath</i> or the nature strip as long as it's not obstructing pedestrians and drivers. It can also be parked at an angle in parallel parking areas.</p> <p>Even though vehicle, has the same meaning as Reg 15 of the Road Safety Road Rules 2017, the intent would appear that the Council is not looking for any vehicle that may be dangerous to the public to be parked within or on, say, a playground footpath. Motor Bikes have several exemptions within Road Safety Road Rules 2017 and these exemptions should not apply to allow motorbikes to park on footpaths or nature strips within Council Reserves where other motor vehicles cannot be parked. Motorbikes are more prone to fall over when parked on footpaths not made of cement which would be dangerous where children play. The intent is understandably to disallow motorbikes to be driven in or parked on Council Reserves - even if other Glen Eira public material states that motorbikes can be parked on footpaths.</p> <p>https://www.gleneira.vic.gov.au/media/3338/parking-the-law-and-you-2016.pdf</p>
Suggestion	Redraft: Rework within the Council to ensure consistency of message of public material. Then redraft to clarify that motorbikes are <i>not allowed to park on footpaths in Public Reserves</i> and carry a consistent message through to other Council provided publicly available material.
Part 5. Public Reserves	
Referenced Clause	23. Model Aeroplanes in Public Reserves A person must not, without a Permit, fly or permit to be flown any Model Aeroplane in a Public Reserve.

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Future Proof required	The logic of an object flying in Public Reserves should be expanded to cover the probability that objects other than just flying model aeroplanes (inclusive of drones as already defined) should be restricted by the issue of a permit. Public Reserves are to continue to be a safe place so that the areas in which objects fly are also determined to be safe for the community. Things that fly also include hot air balloons, skydivers (their co-ordinated landings), and other potential flying objects such as Uber flying taxi which are to be in Melbourne in two years, to expand to a class of taxi within ten years. The Council does not need to take on the liability from a citizen being injured by a flying object.
Suggestion	Redraft: To future proof and provide clarity against open space safety in Public Reserves being used by anything flying without first obtaining a permit.
Part 6 - Roads and Council Land	
37. Abandoned, derelict and unregistered vehicles	
Referenced Clause	A person must not— (1) park or leave standing an abandoned, derelict or unregistered vehicle; or (2) cause or allow an abandoned, derelict or unregistered vehicle owned by that person to be parked or left standing— on the road or Council Land for more than twenty-four (24) consecutive hours.
Clarity Required	This clause should be expanded taking reference from Road Management Act Schedule 4 - Specific Traffic Management powers of State road authorities - and adopt a variation of these powers to cover Council Roads and Council Land. It is always at the discretion of the Council as to whether an offence has been committed, but the intent should be that it is an offence to leave an unregistered vehicle (presumably uninsured and a public risk) on Council Land. The Council should discourage any attempt to dump vehicles on Council Land and not provide the allowance of 24 hours, which time, as drafted, a vehicle may be dumped. Also, to record the power to impound and dispose of if the infringement notice is not complied with.
Clarity Required	The Drafting is confusing and silent about the Council's right to <i>act</i> or <i>move</i> abandoned, derelict or unregistered vehicles found on Council Land including Park Lands. Clauses 103,104 and 105 exempt references to motor vehicles from clauses intent. Clause 119B of Road Management Act 2004 gives VicRoads the authority to remove property from any of the roads for <i>which VicRoads is the coordinating Road Authority</i> . Reg 132 Road Management Act 2004 provides for removing or relocating vehicles from roads or other property owned or occupied by a <i>road authority</i> .
Suggestion	Redraft: include reference from the Road Management Act to add clarity.
PART 7 - SAFETY AND AMENITY –	
Referenced Clause	Definitions: Fire , includes smouldering or causing smoke (whether or not there is a conflagration) but does not include— (a) a fire lit by a member of a fire brigade in the course of his or her official duties; and
Suggestion	ReDraft: To provide clarity. "his or her" to be replaced.
Guidelines for Local Laws Manual 4.10.2 – Plain English refers The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.	
Referenced Clause	Incinerator includes a structure, device or contraption (not enclosed in any other Building) which is used or designed or capable of being used to burn any matter or material. The term includes a domestic backyard incinerator used to burn household rubbish or garden refuse but does not include a Barbecue or a fire pit, brazier or a chiminea.
Clarity Required	Clarity is required to cover operators or owners, such as self-employed painters or swimming pool operators seeking to backyard dispose of Notifiable Chemicals (as defined Environment Protection Act 1970) or to use Council provided barbecues sites on public land to dispose of the matter, material and Notifiable Chemicals.
Suggestion	The definitions and Term should be expanded to include/highlight, by example, burning <i>commercial waste, chemicals</i> , inflammable liquids and Notifiable Chemicals. The terms matter or material to be expanded to include compounds and substances.

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Referenced Clause	40. Camping, caravans, campervans and shipping containers (1) A person must not, without a Permit, — (a) pitch a tent; or (b) erect any temporary or permanent shelter; or (c) place and occupy a caravan, campervan or shipping container— on any land for camping or living.
Expansion required	Vehicles come in all shapes and sizes and shelters can be constructed of any material
Suggestion	Amend (c) to include the term vehicle: <i>place and occupy a vehicle, caravan, campervan, shipping container or temporary shelter – on any land for camping or living.</i> An exemption clause to be added providing clarity that the Council cares and supports, with other community and government agencies, those in emergencies such as persons seeking such shelter from family violence and in such situations the Council has within its power the discretion not to issue/enforce an infringement notice.
Part 8 – Street Selling, Advertising, Collections and Distributions	
Referenced Clause	50. Chairs, tables and furniture A person must not, without a Permit, place a chair, table or other furniture on any road.
Expansion required	Understandably this section is mainly for Commercial trading. A Council Community Service may be prohibitive or unclear if the clause is not redrafted. It also highlights the need for each Department of the Council to have a responsible officer read and comment on the proposed laws ensuring the proposed laws do not conflict with any current services. Residents and small business frequent the Council Service of hard rubbish collection and within that service may, without a permit, place tables, chairs and furniture on the nature strip in readiness for the Council's subcontractor to arrange to collect.
Suggestion	Redraft: provide clarity that road does not include the nature strip where furniture is placed for Council provided hard rubbish. Each Department's responsible officer to read the proposed Local Laws to approve/confirm the draft laws support the Council's current and planned services.
Part 11 – Animals and Birds	
Referenced Clause	59. Shooting or snaring animals. A person must not, without a Permit, shoot or snare any animal on Council Land.
Suggestion	Redraft: A person must not, without a Permit, shoot, poison, snare or harm any animal on Council Land.
Referenced Clause	60. Must have in his or her possession a Litter Device for that animal and (a) must produce that Litter Device upon request from an Authorised Officer; and
Clarification	ReDraft: To provide clarity. "his or her" to be replaced. Guidelines for Local Laws Manual 4.10.2 – Plain English refers The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.
Suggestion	Redraft: Must have in possession a Litter Device for that animal and (a) must produce that Litter Device immediately upon request from an Authorised Officer; and Add to the definition of Litter Device - <i>container</i> .
Referenced Clause	61 A person who keeps Fowl Houses, Kennels, Pigeon Lofts or animal enclosures in (1) an unsatisfactory manner is guilty of an offence. For the purposes of subclause 61(1), a Fowl House, Kennel, Pigeon Loft or animal (2) enclosure is kept in an unsatisfactory manner if it is not: kept clean and free of odour at all times; or (a) constructed and maintained in a manner to prevent vermin, or (b) constructed of suitable material to enable cleansing, or (c) generally able to prevent a loss or an adverse impact on the residential (d) amenity of neighbouring or nearby properties.

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Expansion required	There is nothing in the clause supporting that the enclosure needs to support the health and well being of the animal(s) it houses or keeps in place. Understanding that this may be covered in intersecting state legislation, however, the main purpose of an enclosure should be first to provide for the animal's well being and health (i.e. the enclosure is fit for purpose)
Suggestion	Add Clause (2) (e) constructed and maintained for its purpose to house, secure and maintain the safety and wellbeing of the animals.
Referenced Clause	Clause 64 (4) the circumstances in which the bird is fed is likely to or does— (4) damage property; or (a) interfere with the material comfort of any other person; or (b) interfere with the enjoyment by any other person of his or her land.
Suggestion	ReDraft: To provide clarity. "his or her" to be replaced. Guidelines for Local Laws Manual 4.10.2 – Plain English refers The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.
	Clause 72. (4) The owner and occupier of land must, at his or her own cost, ensure that the Vehicle Crossing between the road and the boundary of such land is maintained. ReDraft: To provide clarity. "his or her" to be replaced. Guidelines for Local Laws Manual 4.10.2 – Plain English refers The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.
Referenced Clauses	Clause 91. Delegations and Clause 93. Exemption from Permit or Permit fee. Clause 91 (1) does not refer to a delegated authority for exemption from Permit for a <i>class of person</i> . Clause 91 (2) Does not include Clause 93 as a non-delegated authority. Clause 93 reads that the Council acts. The question being <i>who has the authority to exempt a class of people?</i> Could this mean that to exempt a <i>class of people</i> it must be by resolution?
Suggestion	Redraft
Referenced Clauses	103. (3) (b) a person acting on behalf of its owner who provides evidence to the satisfaction of an Authorised Officer of his or her authority from the owner –
Suggestion	ReDraft: To provide clarity. "his or her" to be replaced. Guidelines for Local Laws Manual 4.10.2 – Plain English refers The Office of the Chief Parliamentary Counsel: Plain English Policy • use gender-neutral language.

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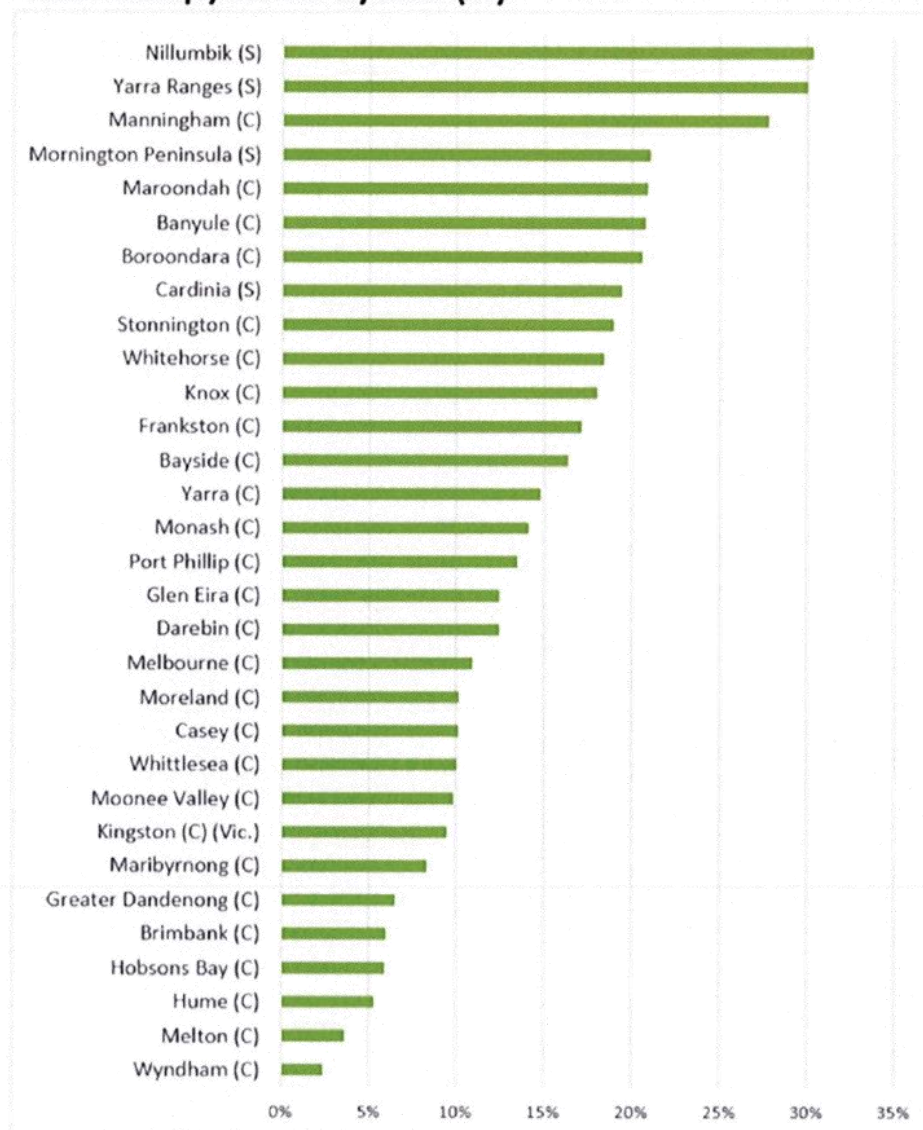
Proposed Community Local Law Submission

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Attachment B. - Provided by Department of Environment, Land, Water and Planning to support this submission. The Department, and the CSIRO, will release additional data in August 2019.

Attachment B.1 – Tree Canopy Cover by LGA as a percentage

Tree Canopy Cover by LGA (%)



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Attachment B.2 LGA Baseline difference in Celcius

Glen Eira = **8.63 degrees** Celcius **hotter** than non-urban baseline land surface temperature – a measurement of community livability

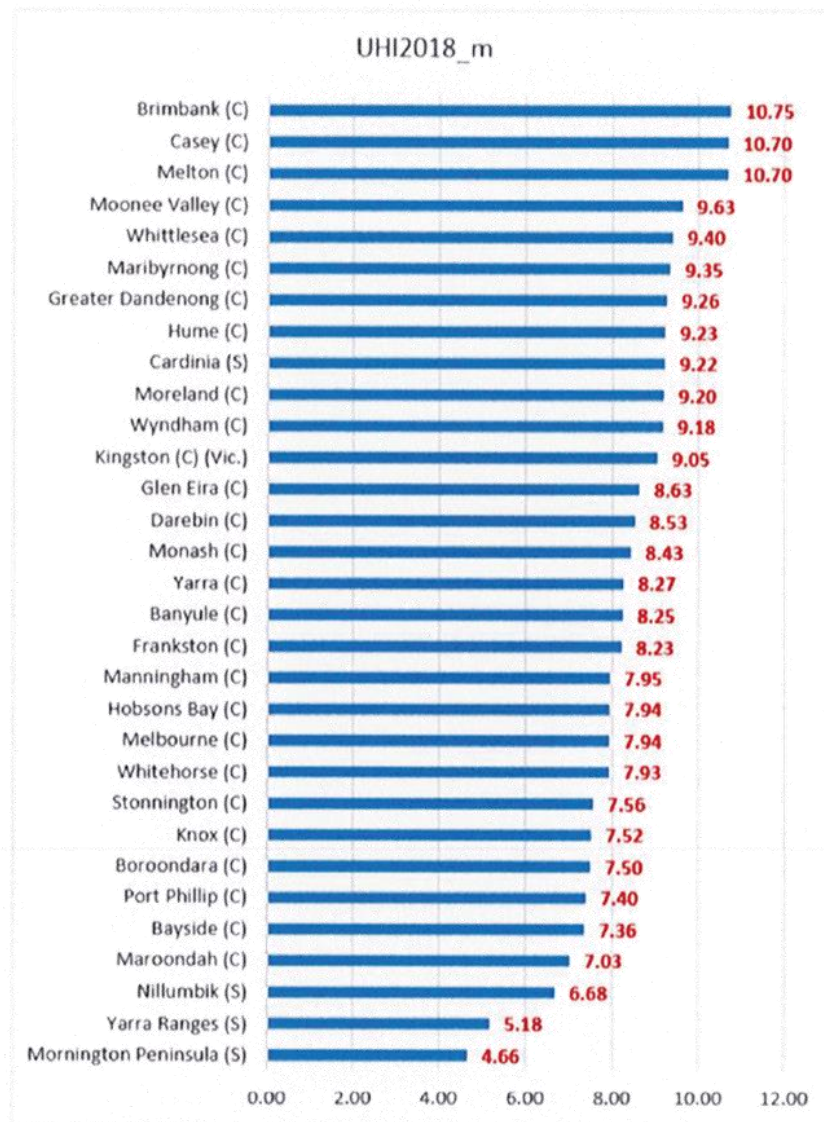


Figure 1. The average difference (°C) in Land Surface Temperature (LST) to baseline LST (°C) between

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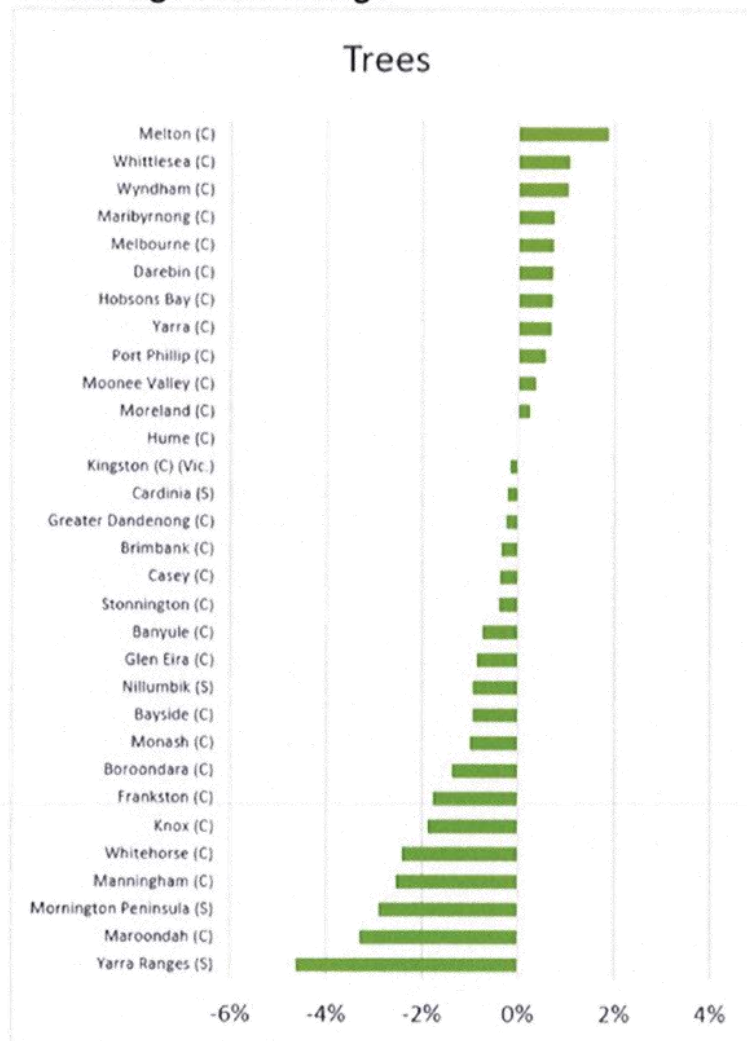
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Attachment B.3 LGA Percentage Point change

Glen Eira's change represents a **5% decrease between 2014 and 2018** in total **Tree Canopy**

Coverage

Percentage Point Change



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Submission 24 – Local Law Review 2019
Sent: Fri 19/07/2019 10:49 AM

Below is a submission to the Local Law Review 2019

GENERAL COMMENT

- Dissatisfaction that the review does not include
 - the creation of a tree register and tree protection measures for Glen Eira's significant trees on public and private land.
 - Lack of information on how these laws are to be applied and enforced.

SPECIFIC COMMENTS

Community

- **Residential Parking Permit Scheme** – need to remove clause 4.5.1. (from Local Law and Policy) which states that

“If an applicant, for a residential parking permit and/or visitor parking permit, resides in a recognised commercial area then the parking permit issued will be for the nearest adjacent road which is not in the commercial area”.

Residents of commercial areas whose car parking requirements exceed provided car parking spaces should not be entitled to park elsewhere. It is hangover for a by-gone age that is now

- Detrimental to
 - surrounding residents of nearest adjacent roads and
 - retailers/businesses in the commercial area (reduced patron turnover)
- Contrary to concept of encouraging use of public transport, cycling and pedestrian activities and discouraging private vehicle use
- Unmanageable – how will Council ensure that permits issued don't exceed street parking capacities.

Meeting Procedures

- **Public Questions** – All public questions submitted and Council's response should be recorded in Council Meeting Minutes regardless of whether the questions author is physically present or not. Public questions are valid concerns raised at Council level which the residents specifically want recorded within Council Minutes, ie. the public and permanent record with definitive legal status.

The recently introduced requirement to be present, at the time of reading, should be removed

- is an unnecessary and onerous obligation on residents exercising their right to have both the question and response recorded in the permanent, public record

Submission 24 – Local Law Review 2019

Sent: Fri 19/07/2019 10:49 AM

- is negated by the live streaming of Council Meetings
- **Requested Change to Meeting Procedures –**
 - All resolutions passed by Council and recorded in the Meeting Minutes should include details of which Councillors voted for or against the motion.

Redacted -

President

Glen Eira Residents Associaton

Redacted - personal information

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Sent: Fri 19/07/2019 12:53 PM

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Submission from Families For Healthy Air, a group of caring professionals concerned about the serious health impacts of biomass/wood smoke on our community and the lack of community health information informing the community so they can protect themselves, their children, and their community.

True choice is only possible when it is informed.

**Glen Eira City Council Community Local Law 2019 (proposed Community Local Law),
Part 7, Clause 38.**

PROPOSED LOCAL LAW

38. Lighting fires (1) A person must not, without a Permit, — (a) light any Fire; or (b) allow any Fire to be lit; or (c) allow any Fire to remain alight — in the open air on any land. (2) Subclause (1) **does not apply to a— (a) Barbecue; or (b) fire pit, brazier or chiminea on any private land in a Residential Area.** (3) A person must not allow any Barbecue or a fire pit, brazier or chiminea on any private land in a Residential Area to discharge any dust, grit, ash, smoke, effluvium, substance or odour that constitutes a nuisance or is an unreasonable interference with the amenity of any other person.

(My bolding).

https://www.gleneira.vic.gov.au/media/4239/community_local_law.pdf

CURRENT LOCAL LAW

306. Lighting a Fire or allowing it to remain alight in the open air on any land except in a Barbecue or for the purpose of religious practices.

<https://www.gleneira.vic.gov.au/media/4244/local-law-2009-august-2016.pdf>

CONSULTATION

The documentation provided online “What consultation has happened to date?”

<https://www.haveyoursaygleneira.com.au/local-law-review-2019/fags#question45978> does not record any consultation with EPA Victoria, Victorian Department of Health and Human Services, or with relevant health authorities such as Asthma Australia, Lung Foundation Australia, The Heart Foundation, Stroke Foundation or Cancer Council Australia. This change to the local law has not been based on adequate consultation and research into the established negative health impacts of wood smoke air pollution on everyone.

This change to the local law has not been drawn to the community’s attention to my knowledge, it can only be found by looking at the draft document. Information provided below on health impacts has not been provided by Council, so Council has not enabled an informed community response to date.

RISK ASSESSMENT

A risk assessment was completed for the proposed Community Local Law. This section details the rating of the severity of the problem according to the frequency and consequences (assuming no Local Law was in place either now or in the future) and the reduction in rating that is anticipated as a result of the Local Law. In reaching this view, Council considered the absence of clauses of the proposed Community Local Law and the lack of controls Council would have over the problem and the impact that this would have on the local community as a consequence.

https://www.gleneira.vic.gov.au/media/4237/community_impact_statement_-_community_local_law_2019.pdf

With regard to banning smoking in council buildings in the same local law, the risk assessment states: "Council considers it is in the local community interest that this level of control is placed over this activity" (8. p. 78). Also "Council considers that the local community would want problems solved as quickly as possible and with the least cost to all concerned. A Local Law provides for quick resolution of the problem. State Legislation is not adequate for management of such issues." (9. P. 78). [community_impact_statement_-_community_local_law_2019.pdf](#)

Biomass smoke from wood is similar in its toxicity and health impacts to biomass smoke from cigarettes (some studies suggest it is more toxic). However wood burning creates much more smoke (visible and invisible) than cigarettes. There is no level of biomass smoke at which there are no health impacts (<https://soe.environment.gov.au/theme/atmosphere/key-findings?year=96#key-finding-117331>). These are cumulative for everyone, and in vulnerable people can be fatal within a short period of exposure such as a few hours (by stroke, heart and asthma attack <https://www.ahajournals.org/doi/pdf/10.1161/CIR.0b013e3181d8e3e1>).

Premature deaths due to air pollution, of which wood smoke may form up to 60% locally in winter in some parts of Australia, are estimated at over 4,300 people a year (WHO <https://breathelife2030.org/city-data-page/?city=16>), just the tip of the health impacts pyramid. By comparison this is more than twice the number of deaths due to road accidents and homicide in Australia combined.

Having read the information provided online and spoken with [Redacted - \[REDACTED\]](#), Legal and Governance Coordinator, it appears that council staff developing this clause, like many in our community, were not aware of the adverse health impacts of wood smoke. Scientists and doctors are in no doubt that wood smoke causes and triggers illnesses both minor and serious, including asthma, pneumonia, Chronic Obstructive Pulmonary Disease (COPD), lung cancer, heart disease and type 2 diabetes. The fine particles in smoke, PM2.5, are absorbed into the blood stream and transported to all organs, causing inflammation and disease. PM2.5 becomes lodged in the brain, impacting on brain function including the development and behaviour of children. PM2.5 exposure during pregnancy is known to be causal in low birthweight and premature birth, which is a developmental risk factor.

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This information is readily available on the internet from reputable source. The Australian Air Quality Group – woodsmoke site <http://woodsmoke.3sc.net/news> provides a comprehensive collection of much of the data readily available. There are short informative videos on the right of this website news page from WHO, UNICEF, EPA NSW and Dr Jim Marcos, Australian Lung Foundation. Doctors and Scientists Against Wood Smoke Pollution also have an informative well referenced website <https://woodsmokepollution.org/>.

Another hazard that relates to the science of biomass smoke is the recently discovered issue of 'thirdhand smoke'. Cigarette and wood smoke are similar biomass smokes. With thirdhand smoke the toxic tiny particulate matter (PM10 and PM2.5) in smoke, too small to see, sticks to surfaces in the environment and is then absorbed through the skin, or detached and is circulated in indoor air again, often spreading to other rooms. It is very hard to keep wood smoke out of houses, and this contamination especially puts very young children at risk through their increased surface contact and small size, while harming everyone's health through cumulative inhalation (<https://www.youtube.com/watch?v=byrWnzCPEao> https://www.washingtonpost.com/news/to-your-health/wp/2018/05/09/third-hand-smoke-is-widespread-and-may-be-dangerous-mounting-evidence-shows/?noredirect=on&utm_term=.367c822d72b0).

COUNCIL'S DUTY OF CARE

Council has as duty of care to inform and protect its residents from toxic wood smoke air pollution. Suggesting that "(3) A person must not allow any Barbecue or a fire pit, brazier or chiminea on any private land in a Residential Area to discharge any dust, grit, ash, smoke, effluvium, substance or odour that constitutes a nuisance or is an unreasonable interference with the amenity of any other person" is not practical, does not match the science of air pollution and cannot be suitably regulated. Unfortunately smoke does not have to be visible to be harmful, if you can smell it you are inhaling it, and if you are inhaling it, it is harming you. Smoke can drift close to the ground through a neighbourhood where we are breathing, and can be held at house level for days in cold or still weather. Smoke seeps into homes with research indicating it is very difficult to keep out, then it attaches itself to surfaces creating further risks.

Wood smoke adds to the air pollution swirling in our air catchment and is a global warming accelerator, not carbon neutral, with methane and black carbon released particular climate warming accelerants (see <https://woodsmokepollution.org/>).

Action requested: Council must take into account current knowledge on smoke movement in our environment and the serious health impacts of toxic biomass/wood smoke air pollution for which there is no safe level.

Action requested: While this information is not easy to hear when we have traditionally associated fires with comfort and warm feelings, Council must act on its duty of care, inform its community about the hazards of biomass/wood smoke and eliminate it from the environment (including burning of coal and wood products in barbecues, fire pits, braziers, chimineas, outdoor bread and pizza ovens). The Glen Eira community has many suitable alternatives available for cooking and keeping warm outdoors.

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Sent: Fri 19/07/2019 1:56 PM

While I am not a resident of Glen Eira City I have been contacted by a claimed resident who claims to be badly affected by wood smoke and is very concerned that the proposed changes to the local laws will weaken their protection and I have been asked to make a submission in support of them. I have also heard from a range of other people affected by wood smoke pollution and heard of their attempts to obtain relief from their local council and hear of cases in which councils offer no practical relief. I also hear from people attempting to obtain relief in courts and the very high burden faced, and even attempts to sue their councils and the defences made and argued. For what it is worth, I have tried to note the key issues based on my experience in the hope that it will be helpful.

1. I appeal to the councillors to not remove bans on specific wood burning activities because:

(a) These activities are highly likely to cause an unreasonable interference to neighbours in the densely populated area.

(b) Neighbours are likely to experience high exposure to the emissions from these activities and to be harmed by the toxic emissions and to be disproportionately affected.

(c) The claimants are unlikely to obtain justice via the statutory nuisance provisions in the PHAW Act because councils generally do not allocate adequate resources to properly investigate and prosecute alleged interference nor to be knowledgeable of the proper application of the laws.

(d) It is a very high barrier and burden for claimants to obtain relief by taking private legal action in the courts using common law, and typically people fail in the courts due to lack of evidence or poor legal representation, or people do not even try because of the costs and the risks and they just have to abandon their home or suffer the interference.

(e) Although there appears to be public interest in burning wood, and public interest in avoiding a 'nanny state', the laws in Australia appear to be clear that public interest is no reason to deny relief in private nuisance. I appeal to the council that there is a greater public interest in that position in general and appeal to please not undermine the existing protections.

(f) past councillors have likely exercised great courage to achieve some protections, and it is likely very unpopular to propose bans on wood burning, and it takes much less courage for you to keep these protections. I appeal to the councillors to please not throw them away, and I make the case below to not replace them with general nuisance provisions which in my experience are not effective.

2. The council adds general nuisance provisions to the local law, in an apparent substitution for clear bans on some wood burning activities, and this appears to be contrary to the principle that "Local Laws should not allow discretions on the part of those administering/enforcing them without clear guidelines", a principle that the council acknowledges, because general nuisance provisions are substantially discretionary. A finding of fact by the officers investigating a nuisance claim will be largely a matter of discretion, and the allocation of resources to the investigation will be largely at the councils discretion, so this law being proposed is largely discretionary. In practice this allows the council to ignore the plight of the claimants at the councils discretion, and that often happens in my experience. Further, the council has supplied no clear guidance on this, as the principle requires. It would appear very problematic for the council to attempt to provide clear guidance on general nuisance provisions as that might overstep the councils authority by being an attempt to redefine nuisance laws or be seen as an attempt to mislead people on their rights.

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Sent: Fri 19/07/2019 1:56 PM

Victoria appears to have a legal precedent that residents can not sue councils to force councils to use their authority under the PHAW Act to abate an alleged nuisance, and for the reason that this statutory nuisance law is too general to support such an order, and that precedent might be helpful here too and support an argument not to make local laws that are too general. I appeal to the council to strike our general nuisance provisions from the proposed local laws, and appeal to the council that the existing bans are the appropriate clear laws to make.

3. The council appears to be making a range of errors of law in its interpretation of the law of nuisance, and these either individually or collectively appear serious.

(a) It would appear that precedents in common law nuisance make it clear that public interest is not a reason to deny relief in private nuisance and yet the council appears to rely on public interest arguments to deny relief in the way of effective bans. Further the tone of the document suggests to me that the council believes these would also be grounds to deny relief in a nuisance complaint. This appears in the council's reliance on the EPA Act which is a public interest compromise and thus hostile to a claimant in nuisance, and also appears in the council's reliance on the Human Rights Charter where the council explicitly states "These rights are balanced against the community interest."

(b) It would appear that precedents in common law nuisance make it clear that it arises from conflicting property rights, and yet the council omits to acknowledge that the claimant in nuisance also has rights. The existence of the right to burn is not in general denied, but under laws in Australia, under our community standards, those rights are expected to be balanced against the rights of people to enjoy their property without interference, and it is expected that that balance be made in the interest of convenience and not in the interests of people meeting their emotional needs.

(c) It would appear that precedents in common law nuisance make it clear that the law is directed at the harm from the interference and that it is not a defence to claim that the activity causing the interference is reasonable. The council relies on claims about the reasonableness of the activity causing the interference, it relies on the EPA Act which has a WMP focused on 'reduction' and claimed reasonableness of the activity, and it relies on the Human Rights Charter to claim that people have a right to perform activities, and it appears to be an error of law to use this as a defence.

(d) The council relies on both the EPA Act and also on the PHAW Act nuisance provisions. The protections in the PHAW Act nuisance provisions are explicitly stated as being in addition to all other laws, so in addition the protections offered by EPA Act. The council may well be able to rely on the EPA Act to address the wider ambient air quality that the community as a whole experiences, a public interest compromise, but it also has a responsibility under the PHAW Act which provides far greater and more specific protection in nuisance. To the extent that the council relies largely on the EPA Act, on a policy of 'reduction' or 'education', it is likely failing in its responsibility under the PHAW Act. The EPA Act can not be relied on to weaken or interfere with protections against nuisance wood smoke because the council has an additional responsibility under the PHAW Act.

(e) It would appear that precedents in common law nuisance make it clear that the interference (not the activity causing the interference) is to be judged objectively and from the perspective of a reasonable person, and that reasonable person in law is someone moderate in their habits and someone not overcome by emotions, and not the average person. The council supports weakening protections for people affected by wood burning by arguing that the polluter has a right to their beliefs, a purely emotional claim, and to perform a far from moderate

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habit, and I appeal that that is the wrong standard of 'reasonable person' to apply to assessing a nuisance claim.

4. The council argues that some other councils have similar laws in support of making changes to the laws regarding wood burning. It would appear that this offers the council no support alone. The council might have asked the other councils for legal precedents and arguments and incorporated those and that would be something, but it has not. Councils do not appear to have the authority to take away peoples common law property rights in this matter as that would appear to be in direct contradiction of the PHAW Act under which the council has authority.

Councils do not appear to have the authority to legalize the interference from wood burning, and surely councils can not act in a pack to practical take rights. I appeal to the council to strike out this argument and replace it with legal precedents and a sound discussion.

5. The principle of legality appears clear. If the people in Victoria, in Australia, wish to take peoples property rights for the purpose of interference from wood smoke then that must be explicitly stated in law, the laws must state that they overriding peoples common law rights in this matter. If the people also wish to take those rights without compensations then that must also be done properly. The council should not be attempting to have that effect by stealth, by misleading claimants, and I appeal to the council to not denying practical relief by stealth, not by making it a private discretionary matter for the council, not by publishing misleading guideline to peoples rights, not to be making local law exemptions that might mislead people into believing that some wood burning activities are legal irrespective of the circumstance, etc.

6. If the council has made a lot of mistakes in this process, as it appears to me, then please work with the community to correct them and to state the case properly for the community to comment. As it stands the proposal and supporting documentation appear to me embarrassing to the council and should be withdrawn. It would not be justice for the community to have to respond to a proposal riddled with errors, and councils should not be allowed to avoid due process by claiming that the errors will be corrected and considered by the council in private. If the council is proposing to do something very ugly then it should not be able to do that by stealth, it should be stating that very clearly for the community to consider, it should be stating the impact on the victims clearly, so that the community can consider if they can live with that and so that the victims can exercise their legal rights.

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SUBMISSION by Redacted - , OBJECTION TO:
Glen Eira City Council Community Local Law 2019 (proposed Community Local Law),
Part 7, Clause 38 (subclause 2 (b)) – in BOLD below:

PROPOSED LOCAL LAW

38. Lighting fires (1) A person must not, without a Permit, — (a) light any Fire; or (b) allow any Fire to be lit; or (c) allow any Fire to remain alight — in the open air on any land. (2) Subclause (1) **does not apply to a— (a) Barbecue; or (b) fire pit, brazier or chiminea on any private land in a Residential Area.** (3) A person must not allow any Barbecue or a fire pit, brazier or chiminea on any private land in a Residential Area to discharge any dust, grit, ash, smoke, effluvium, substance or odour that constitutes a nuisance or is an unreasonable interference with the amenity of any other person.

https://www.gleneira.vic.gov.au/media/4239/community_local_law.pdf

CURRENT LOCAL LAW

306. Lighting a Fire or allowing it to remain alight in the open air on any land except in a Barbecue or for the purpose of religious practices.

<https://www.gleneira.vic.gov.au/media/4244/local-law-2009-august-2016.pdf>

My objection to this change to the Current Local Law 306 is borne of my own personal experience and that of my family and friends, of the effects of wood and other solid fuel smoke that exists in the ambient air of Glen Eira City. Autumn and winter levels of wood smoke are already at uncomfortable, unhealthy and irritating levels; this law change will only serve to increase the burden of smoke in our air. The right to clean air is a basic human right, just as is the access to clean water. Given the now world-wide, accepted, reputable, documented knowledge of the impacts of wood smoke on health, and through submissions such as this one, highlighting how regressive and out-of-step the Council is compared to neighbouring Councils on this issue; as well as the ignored EPA Victoria stance on wood smoke, etc – Glen Eira City Council is conceivably setting itself up for possible future legal consequences, esp as much of the Community Impact Statement pertaining to this Clause is highly misrepresentative.

ISSUE of NO CONSULTATION WITH COMMUNITY:

In the Proposed Community Local Law – Community Impact Statement page 3

<https://www.haveyoursaygleneira.com.au/44186/documents/106954>

It is stated:

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The Victorian Government “*Guidelines for Local Laws Manual*”³ lists best practice guidelines for the creation and enforcement of Local Laws. The key features of these best practice guidelines are summarized as follows:

- to improve accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity and transparency;
- regulation should be viewed as a last resort because it imposes a burden of compliance on the community and a burden of enforcement on the Council;
- the community should be involved from the commencement of the law-making process, not just at the final formal submissions stage under section 223 of the Act;
- Local Laws should incorporate relevant council policies;
- Local Laws should not allow discretions on the part of those administering/enforcing them without clear guidelines;

In the Review & Consultation section on page 4, there is no mention (except for Nature Strip Planting) of the Community being involved at the commencement of the law-making, as per best practice guidelines. The Community has only been engaged during the formal submissions stage, allowing just over 1 month for consideration and submission, showing that **Glen Eira Council has ignored best practice guidelines** and lacks regard for community opinions.

Also, at the drop-in sessions provided by council during the consultation period, questions asked by myself of **Redacted -** and **Redacted -**, showed that no consultation was conducted with critically relevant authorities such as the EPA Victoria, and incredulously, the Council cites this law change as satisfying their objective for *a safe, healthy inclusive community, and enhancing of health and wellbeing* - with no data to back up this claim. Residents who wish to gather and socialise have access to cleaner and cheaper options of recreational heating, such as gas heating for outdoor warmth. But the allowing of wood/solid fuel burning in the open air deprives all residents of the basic access to clean air; a smoke-filled environment discriminates against and deprives the many vulnerable (young, elderly, ill, asthmatics etc) members of our community from socialising in the outdoors; many of these people are forced indoors to prevent adverse effects of a smoke-filled environment. Historically, as per the Current Local Law and neighbouring Council laws, smoke was and is seen as a detriment to community amenity and a nuisance. By Council now deciding to allow lighting of fires and the resulting smoke, is ignoring this acknowledged wisdom.

As a result of Council’s lack of consultation with the most relevant authority related to this law – EPA Victoria, whose role it is to use science to protect the environment and human health, I contacted the EPA’s Chief Environmental Scientist, eminently qualified in her field, Assoc Prof Dr **Redacted -** to make a submission regarding this Proposed Law – this was her response:

Good afternoon **Redacted**

Thank you for your correspondence of 16 July 2019 regarding your concerns for changes to local laws in the Glen Eira City regarding lighting fires in backyards.

The impacts that smoke can have on air quality, human health and livability in the community is an important issue. I thank you for sharing your concerns regarding the

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proposal to change Glen Eira City's Local Laws to permit the lighting of fires for chimineas, braziers, and smaller standard fire pits.

Environment Protection Authority Victoria (EPA) is responsible for the regulation, monitoring, assessment and reporting of air pollution across the state of Victoria. This includes working closely with all local councils, industry and community on matters related to pollution and waste.

EPA has an advisory role to councils on matters relating to air quality and provides advice regarding the impacts of smoke on health. EPA also provides general advice regarding wood burning and air quality and smoke from woodheaters. EPA encourages all persons to familiarize themselves with this advice to reduce the potential impacts from smoke.

I would also like to take this opportunity to draw your attention to section 38(3) of the proposed local laws, which provide a clause to reduce impacts on the amenity. The proposed local laws state: *A person must not allow any Barbecue or fire pit, brazier or chiminea on any private land in a Residential Area to discharge any dust, grit, ash, smoke effluvium, substance or odour that constitutes a nuisance or is an unreasonable interference with the amenity of any other person.*

Should the local laws be endorsed, smoke from these fires would come under the investigation by local government. In this case Glen Eira Council would be responsible for investigating any smoke from these fires that impacted other residents.

Following your correspondence, I have asked my colleagues to arrange a meeting with Glen Eira City to discuss how to manage the potential impacts from smoke.

Thank you again for contacting me on this important matter, I trust this response has assisted to address your concerns.

Regards

Redacted -

Executive Director - Applied Science & Chief Environmental Scientist

Environment Protection Authority Victoria

200 Victoria Street, Carlton VIC 3053 | GPO Box 4395, Melbourne VIC 3001 | DX 210082

*****I would like to make a formal request here, asking to be present at the meeting between Redacted - 's colleagues and Glen Eira City Council*****

In the Proposed Community Local Law – Community Impact Statement page 56
<https://www.haveyoursaygleneira.com.au/44186/documents/106954>

Appendix 1 – Assessment of Local Law Provisions - Part 7 - Safety and Amenity & Part 12 Your Property

1 (a)	Part Number(s) and Title(s)	PART 7 - SAFETY AND AMENITY & PART 12 YOUR PROPERTY
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2.	Identify the Problem(s)	<p>These clauses addresses:</p> <ul style="list-style-type: none"> • incinerators in a residential area; • fire hazards; and • the amenity impacts on the local community of fire and smoke. <p>Unregulated burning activities can cause potential safety and nuisance issues, particularly in residential areas where it can lead to a significant reduction in local air quality and community amenity.</p>
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There is Council acknowledgement in this document section that there are *amenity impacts from allowing of fire and smoke – and unregulated are a cause for potential safety, nuisance, and reduced air quality and amenity*. I argue that once allowed, open air burning regulation becomes virtually impossible esp as most activities happen on weekends or evenings when Civic Compliance Officers are not on duty, and so the activity goes on unchecked causing grievance to the community.

3.	Relating the Problem to Council policy objectives: Identifying if it is a Council problem	<p>This is a Council problem because it supports theme three (3) of the Council and Community Plan 2017–2021. Safe, healthy and inclusive - A strong and safe community that connects people and enhances health and wellbeing.</p>
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The Allowing of residents to burn wood in their backyards in order to satisfy the Council's objective for a safe, healthy inclusive community is completely discreditable. The link between these is tenuous and the attitude is archaic. The Council is utterly out of step with current medical and scientific advice (see Dr **Redacted - personal** fact sheet links). Upon questioning **Redacted -** and **Redacted** **Redacted** at the drop-in sessions, I discovered this claim is being made with no data to back up the claim, but rather a general anecdotal approach.

In contrast, there are numerous, conclusive medical and scientific data papers available, from over 20 years of Australian research matching all international research on this subject, that there is **NO SAFE LEVEL OF WOOD SMOKE** (all data parallels the damage done by tobacco smoke). I will not quote statistics nor scientific papers – they are too numerous to list and all available for easy access via internet research.

At a recent air pollution forum I raised this issue with Associate Professor **Redacted -** (Associate Professor **Redacted** is a Respiratory Physician at the Peter MacCallum Cancer Centre, the Director of Respiratory and Sleep Medicine and Director of Clinical Training at the Royal Melbourne Hospital. In addition to his medical appointments, he holds two

principal fellowships at The University of Melbourne, one in the Faculty of Medicine, and the other in the Department of Physiology. Associate Professor Reda has clinical, teaching and research interests in lung cancer, advanced bronchoscopy and COPD and has published over 100 scientific papers,.... He gave a presentation on the Health Impacts of Air Pollution, including wood smoke. I had the opportunity to ask Prof Reda what he thought about Council advocating for open fires in order to build connected communities, he answered very wisely and simply: “people can use outdoor gas heaters”.

10 questions asked by myself of Redacted - & Redacted - personal, at the drop in sessions, written by Environmental Lawyer, Redacted - of Environmental Justice Australia, revealed that no consideration was given in this review of the detrimental health impacts that residents would be exposed to by freeing up the laws on open fires. The consultation was either nonexistent or completely inadequate:

1. Does Council understand the extent to which exposure to wood smoke is health hazard?

Response: no reports were consulted; simply that the local law was modelled on the existing law of the past 10 years

2. Has Council conducted research into the health impacts from wood smoke?

Response: not aware of any health impacts

3. Does Council intend to implement air quality monitoring to determine whether ambient air standards will be breached?

Response: not aware of any such proposals

4. Has Council consulted with EPA Victoria on the health impacts of exposure to wood smoke and monitoring ambient air quality? Does Council intend to consult with EPA Victoria on the health impacts of wood smoke and monitoring ambient air quality?

EPA was NOT consulted; only the MFB was consulted and air quality was not touched upon, they were simply asked if there were any local area issues that were of concern to the MFB, whose response was that there were no areas of concern

5. Why are fire pits included in the list of exemptions from permits at clause 38(2)(b)?

Response: that it is an activity that is already undertaken by residents and as long as it is not a nuisance, no permit is required.

(This is revealing; the only effective reason for the inclusion of fire pits is that residents are currently already breaking the law, and therefore to simplify matters, and reduce the burden of enforcement, the Council will remove the law rather than take on the burden of enforcement).

6. How does Council intend to monitor and enforce proposed clause 38(3) to ensure that no nuisance or unreasonable interference with the amenity of any other person?

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Response: by responding to complaints

When asked by myself, how would the council deal with these complaints when most occur after 5pm and weekends:

Response: asking the complainant to keep a log.

This once again proves that Council's proposed law will be no better at managing adverse environmental impacts than the current law which requires the same long term solution of log-keeping. But instead, by this law increasing the number of open fires in the community will increase the burden of complaints from residents on Council Civic Compliance.

7. Does Council intend to introduce standards and obligations for the burning practices and types of materials burned in fire pits, braziers or chimineas?

Response: Not detailed in Local Law

When further questioned on this, was advised that the Local Laws are a flexible mechanism and can be changed as issues arise. Therefore, there are no control mechanisms for what is to be allowed to be burned.

8. How does Council intend to ensure the protection of public health from material burnt in fire pits, braziers or chimineas that should be prohibited, such as plastics, household wastes, painted timber, etc?

Response: **Redacted -** stated that the word "effluvium" in clause 38(3) covered this aspect.

I argued that this was incorrect as Effluvium simply means: "an unpleasant or harmful odour or discharge" and is NOT related to the nature of the material being burnt.

This is an utterly inadequate and negligent clause; it allows the lighting of open fires without specifying any guidelines/prohibitions on materials being burnt.

Redacted -, upon consulting Kingston Council Law, suggested they could adopt similar exclusion clause therein (215), which has more detailed specifications of items prohibited from being burnt.

This is revealing of how inadequate the review of this Local Law has been.

9. Will Council maintain a register of complaints from community members exposed to wood smoke from fire pits, braziers or chimineas?

Response: Council maintains records of all complaints.

10. Will Council ensure that strong enforcement action is taken against those who violate draft clause 38?

Response: there is a hierarchy of responses:

1. Education
2. Informal warnings/written warnings/infringements
3. Prosecution

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Depending on harm caused and severity

My family's personal experience of enforcement by Civic Compliance Unit is that they are prepared to allow a case such as ours (neighbours burning construction waste 3-4 times/per week) to last 2.5 years, such is the lack of will to prosecute.

5.	Measuring success	Fewer complaints. Less damage.
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The measure of success will be "fewer complaints and less damage".

I believe this law change will increase complaints, pitting neighbours against each other, by way of neighbours having to prove the judgement that the lit fire is discharging "any dust, grit, ash, smoke, effluvium, substance or odour that constitutes a nuisance or is an unreasonable interference with the amenity of any other person".

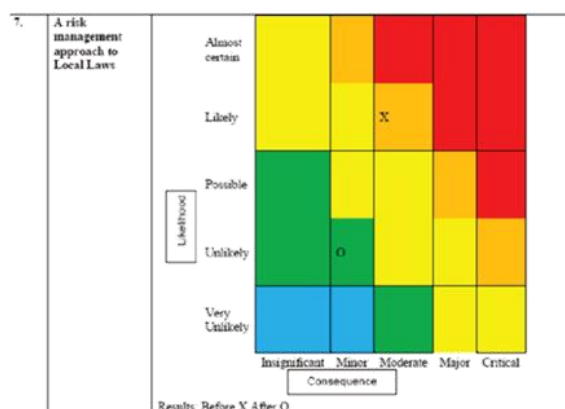
This method of "fire control" is completely inadequate, as the burden of proof is too heavy or simply impossible and therefore too difficult to enforce. However a complete prohibition is clear-cut and reduces the burden of proof, thereby reducing complaints and causing less damage to resident health.

6.	Identifying existing legislative provisions that may be overlapped by a Local Law	This Local Law may intersect with the <i>Public Health and Wellbeing Act 2008</i> and the <i>Environment Protection Act 1970</i> . The objectives of the <i>Environment Protection Act 1970</i> are supported by the controls in the proposed Community Local Law in relation to a range of activities with adverse environmental impacts. The <i>Public Health and Wellbeing Act 1970</i> does not provide the ability to intervene promptly to support immediate abatement of situations, such as nuisance issues, where there may be risks to public health.
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In relation to section 6 above, I argue that the controls in the proposed Community Law in relation to the council-acknowledged "adverse environmental impacts" are not able to provide a better ability to promptly intervene and support immediate abatement of such nuisance issues, where there may be risks to public health. The Council has absolutely no evidence that they are better capable of managing the impacts by the law change. I was involved personally in a 2.5 year case with the Civic Compliance Unit, against neighbours who were unlawfully using a fire pit, burning with dirty, untreated wood/ex construction material, minimum 3-4 nights/week. The Council proved that at every stage of the case they were unable to abate the nuisance, and prevent adverse health impacts to our family. This was the case even with numerous evidential documentation provided to the Council. So by opening up the Local law to allow burning of fires in the open air, they will only be increasing the likelihood of complaints and increase the burden on the community and the Council itself.

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I must utterly condemn this risk management graphic as meaningless due to lack of information and data.

By assessing risk from the one extreme of “no law” to the other extreme of the “Proposed law”, we have been given no useful data. The appropriate comparison should be from “current law” to ‘proposed law’, to be a meaningful assessment. Clearly this would not be favourable to the law change, as any law that allows a risky activity to be allowed when it was once prohibited, will show the opposite result. This is a very dishonest and **misleading graphic, which I ask to be retracted.**

8.	Considering and deciding on different Local Law approaches	Council considers that the environmental, amenity, safety and asset protection issues associated with unregulated lighting fires require a medium impact regulatory approach. The Local Law obligations will create a material impact that is proportional to the potential harms. Council considers it is in the local community interest that this level of control is placed over Council Land and assets.
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Once again the Council reveals a lack of knowledge of the true impacts of this Proposed Law change. The increased lighting of fires will directly contribute to increased levels of smoke in our air and the known adverse health, safety and wellbeing impacts as stated elsewhere in this submission.

9.	The least burden / greatest advantage test for Local Laws	Council considers that the local community would want problems prevented or solved as quickly as possible and with the least cost and risk to all concerned. A Local Law provides for quick resolution of the problem. State Legislation is not adequate for the management of such issues.
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Yet again we see here, statements which contradict the true outcomes of this proposed law change. There is no logical possibility that encouraging lighting of open fires would prevent problems; help solve problems as quickly with least cost as possible, any more than the state law. This statement is made without reasoning data or evidence.

10.	Considering and deciding on penalties	In order to reflect Council's responsibility for the health and wellbeing of the community, protection of Council assets and infrastructure and the importance of deterrence, it is considered reasonable to incur a reasonable penalty.		
		Clause	Infringement Penalty Units:	Comment
			Current	Proposed
	38	2.5	2.5	No increase in the level of the penalty for this offence. All of the adjoining municipalities have similar offences which attract penalties in the range of 2 to 5 penalty units. The proposed penalty is within the range of the penalties imposed by adjoining municipalities.

Considering the seriousness of the impacts of breaches of Clause 38 on health and wellbeing of community– and our family's past experience of the utter inadequacy of 2.5 penalty units as a deterrent. Proposal not to increase the severity of this infringement shows that Council does not take the impacts of such breaches on health seriously.

Unfortunately, I know from my family's own experience that even an extreme case of lighting fires law-breaking, spanning 2.5 years of complaints, with all possible written and video/photographic evidence provided, all "I's and T's crossed for the purposes of a future court case", (quote from **Redacted -**), the Council and its Civic Compliance Unit has no will to provide strong enforcement and will avoid prosecution at all costs, despite the damage inflicted on innocent parties subjected to adverse environmental impacts, loss of amenity, comfort and peace.

12.	Review with consideration to Neighbouring Councils	Clause	Similar clause in adjoining Council:				
			Bayside	Kingston	City of Port Phillip	Monash	Stonnington
		38	Yes	Yes	Yes	Yes	Yes
		39	Yes	Yes	Yes	Yes	Yes
		66	Yes	No	No	Yes	Yes

This comparison of neighbouring councils is by far the most scandalous in its inadequacy of comparison; the comparison is so meaningless and such a stretch of logic, deeming it dishonest and misleading, especially when the intent of this review is to make the "laws easier to understand and more user-friendly".

To make positive correlations between these 5 five councils, by stating they are "similar" because they all have a form of "fire control" is completely unacceptable.

Any fair and reasonable person would read this table on face value and say that all 5 councils *allow the lighting of open fires*, and therefore are similar, when in fact the

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MAJORITY i.e. 3 OUT OF 5 COUNCILS LISTED HERE CONTINUE TO PROHIBIT LIGHTING OF OPEN FIRES, revealing that this **Proposed law change is completely out-of-step with at least 4 (Booroondara included) known Neighbouring Councils** who continue to prohibit lighting of open fires - except for cooking etc:

In fact, I found this comparison so unacceptable, I contacted the Victorian Ombudsman at 2.01pm Monday 15th July 2019 and had a 30 mins discussion with "Sam", who advised that I may submit a request to Council for an apology, and/or retraction of the section.

I here wish to request this apology, and/or retraction of the section 12 of table above, at this point in the submission.

Glen Eira City Council needs abolish the Proposed Law change and keep in line with the Following Neighbouring Councils:

A) KINGSTON COUNCIL STRICTLY PROHIBITS LIGHTING OF FIRES
via 19 SEPARATE LAWS on LIGHTING FIRES: 204-222 inclusive:

HIGHLIGHTING 4 of these laws here:

Lighting Fires in the Open & Incinerators

204. A person must not, without a *permit*, light, allow to be lit or remain alight a fire in the open air.

Penalty: 10 penalty units

210. A person must not light or allow to be lit or remain alight a fire in any incinerator or other structure used for the purpose of burning solid fuel materials to create heat outdoors.

Penalty: 5 penalty units

215. A person must not burn or cause or allow to burn any offensive or toxic material or matter, substance or materials consistent with rubber, plastic, oil or oil waste, petrol waste, paint, chemicals, food waste, pressured can, textile fabric, faecal matter or any offensive or noxious matter.

Penalty: 10 penalty units

218. A person must not light or allow to be lit or remain alight any fire in a barbecue for purposes other than cooking food for human consumption.

Penalty: 5 penalty units

**B) STONNINGTON COUNCIL PROHIBITION OF LIGHTING OPEN FIRES;
Additionally extends OFFENCES TO NUISANCES CAUSED BY BBQ AND CHIMNEYS:**

The City of Stonnington General Local Law 2018 (No.1)

147. Incinerators and Fires

(3) A person must not set alight or allow any Fire to remain alight on land or in the open air without a Permit.

(4) Sub-clause (1) does not apply if:

(a) that person is a person authorised by a Public Body engaged in fire protection measures for or on behalf of that Public Body; or

(b) the Fire is in a Barbecue.

(5) An owner, occupier or person in charge of land must not allow a Barbecue to discharge ash or smoke that is dangerous to health or offensive to any other person.

Barbecue (BBQ)

An owner, occupier or person in charge of land must not allow a Barbecue to discharge ashes or smoke to the extent that the discharged ashes or smoke is dangerous to the health or offensive to any other person.

Chimneys

The owner and occupier of any land must not knowingly allow or suffer smoke to be emitted from a Chimney that is a nuisance.

C) CITY OF PORT PHILLIP COUNCIL PROHIBITION OF LIGHTING OPEN FIRES:

58. Incinerators, fires and open air burning

Open air fires / incinerators not to be lit

(1) A person must not light or allow any fire to be lit in the open air or in an *incinerator* on any *land*.

Penalty: 10 penalty units

Barbecues excepted

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D) ADDITIONALLY,
CITY OF BOOROONDARA COUNCIL PROHIBITION OF LIGHTING OPEN FIRES:

42. Open Air Burning and Incinerators

- 42.1. A person must not burn or cause to burn or allow to burn any substance that is likely to cause a fire risk or to endanger health or which is offensive in any part of the municipality.
- 42.2. A person must not light a fire in the open air or allow a fire to be lit or remain alight unless the fire is lit:
 - 42.2.1. in a purpose-built or constructed barbeque for the purpose of cooking food; or
 - 42.2.2. in accordance with a permit.

I hope I have satisfied Glen Eira Council Local Law Review that allowing the lighting of fires in the open air (Clause 38) is a highly regressive law, which will cause injury to every member of the local community, through harm to health and amenity.

Thank you,

Redacted -

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July 18, 2019

Dear Glen Eira City Council,

Doctors and Scientists Against Wood Smoke Pollution (DSAWSP) is an international coalition that was formed to help the public and policy makers at every level of government understand the toxicity of wood and biomass burning. DSAWSP are continually approached by people all over the world who are being harmed by wood smoke in one form or another. We have recently been contacted by residents of Glen Eira who are concerned about a proposed change of the law (Community Local Law Part 7, Clause 38) to allow backyard open fires in fire pits, chimeneas, and braziers.

We strongly agree with the residents of Glen Eira who are concerned about this proposed change in the law.

Thousands of medical studies have proven beyond any doubt that air pollution causes or exacerbates virtually the same entire list of health outcomes as cigarettes do — heart attacks, strokes, asthma, pneumonia, high blood pressure, shortened life expectancy, cancer, chromosomal damage, Alzheimer's, every kind of pregnancy complication, stillbirths, and sudden death. Many of these studies have found effects even when particle levels were well below current regulatory guidelines. Particle pollution has been compared to lead pollution — there is no evidence of a “safe” threshold under which exposure does not cause harm.

But all air pollution is not created equal. Despite some people thinking it emits a pleasing aroma, wood smoke is the most toxic type of pollution in most cities, even more dangerous than auto pollution and most industrial pollution. Lighting up a backyard fire pit is essentially starting up your own mini-toxic incinerator and forcing all your neighbors to inhale the smoke.

Wood burning in all its forms, from wildfires to fire pits, is a serious public health hazard. Wood smoke is unique in containing high concentrations of dioxins, acrolein and PAHs (polycyclic aromatic hydrocarbons), probably the most toxic components of air pollution. Burning 10 lbs. of wood for one hour can release as many PAHs as [35,000 packs of cigarettes](#). Toxicology studies have demonstrated that wood smoke is as much as 30 times more potent at promoting cancers as cigarette smoke. The toxic free-radical chemicals in wood smoke are biologically active [40 times longer](#) than the free radicals in cigarette smoke. The South Coast Air Quality Management District in California found that the particle emissions per minute from one beach fire ring (comparable to a fire pit) is equivalent to the secondhand smoke from 800 cigarettes.

Wood smoke particles are so small, they easily penetrate the homes of neighbors. Concentrations [indoors](#) can be up to 88% as high as the level outside.

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If you can smell wood smoke, you know you are being harmed. The sweet smell comes from deadly compounds like benzene.

Wood smoke is the only pollution emitted right where people spend most of their time, at home. It disperses poorly, is not evenly distributed, and stays in the air longer because of the small size of the particles. Pollution levels can be [100 times higher](#) for downwind neighbors of wood burners than in homes less than a mile away. Local “wood burning victims” have their health jeopardized and their lives shortened, even when the rest of the community enjoys clean air.

On a regular basis, we hear from people around the world who are experiencing great physical and emotional harm due to their neighbors’ wood burning. A significant number of these involve backyard burning.

For example, someone wrote to us about his neighbors’ backyard fires: “It’s not comfortable to be outside, and difficult to keep the smoke out of the house — even with the windows closed. I have to leave my home sometimes for days at a time. My wife has been hospitalized due to smoke inhalation.”

Another wrote, “When my neighbours have fires (usually nightly) I am forced to close all my windows, which often results in the inside temperature reaching 35 degrees or more, making it very uncomfortable for us. If the fire is close by, we experience burning, watering eyes, sore throats, and headaches which persist for hours into the following day.”

These stories, which are included in a selection on our website, are typical of many that have been sent to us.

All public policy, from local ordinances to national legislation, should reflect a priority of public safety and public health protection over the recreation choices of a few. We strongly urge you not to change the law to allow backyard burning in fire pits, chimeneas, and braziers in Glen Eira.

For more information about the harm caused by wood smoke, we invite you to visit our website at woodsmokepollution.org.

Sincerely,

Redacted - personal information

Redacted - personal information

Board Chair

Doctors and Scientists Against Wood Smoke Pollution