

STATEMENT OF CHANGES

City of Yarra Consumption of Liquor in Public Places Local Law 2019

GENERAL AMENDMENTS

| Proposed Amendment | Reason |
|--|--|
| Amend dates | All dates have been amended to reflect the correct dates. Clause 5 has been amended to create greater certainty as to the commencement date of the Local Law. |
| Capitalise defined terms | All defined terms have been capitalised to improve clarity of where terms are defined in the Local Law. |
| Amend wording | To improve readability and to ensure consistency throughout the Local Law, some minor amendments have been made to the wording of some clauses, without changing the substance of the clauses. |
| Remove penalty units below individual clauses | Penalties now included in Schedule to the Local Law. |

PART 1: GENERAL PROVISIONS (DEFINITIONS)

| Clause | Proposed Amendment | Reason |
|-------------------------|---|---|
| 2 | Equalise objectives so that there is no 'principal objective', but rather six | Objectives are used to interpret the local law. Further, the objects help in determining whether the local law is within power. |
| 5 | Amend description of day of commencement | Removes any ambiguity |
| 7 | New clause – Revocation of the Local Law | Insert new clause (7) which sets out the date on which the Local Law ceases to operate. |
| 7 (now clause 8) | Definitions clause | |
| | Remove definition of Chief Executive Officer | Definition not required. |
| | Remove definition of 'Night-Time Hours' | This term is not used in the Local Law and is not required. |
| | New definition of 'Procedure and Protocol Manual' | This incorporates Council's Procedure and Protocol Manual into the Local Law. Allows for flexibility to incorporate decision making guidelines into the Procedure and Protocol Manual without amending the Local Law. |
| | Amend definition of 'Public Place' | Refines the definition of Public Places and uses defined terms rather than undefined and potentially ambiguous terms. Limits the scope of the Local Law to Council land only as directed. |
| | New definition of 'Road' | Further clarifies the definition of Public Places. |
| | | |

PART 2: GENERAL CONDITIONS

| Clause | Proposed Amendment | Reason |
|------------------|--|--|
| 8 (now 9) | Remove sub-clauses (2) – (4) | These are not required |
| 9 | Add possession or <i>‘control of’</i> any Liquor <i>‘other than in a sealed container’</i> . <i>Sub clause (2) included which excludes festivals or prescribed areas.</i> | Allows for greater regulation of liquor in public places, slightly broadens scope of clauses. The inclusion of sub clause (2) creates a clear offence and exception. |
| 10 | Add <i>‘believes on reasonable grounds that a person is contravening or has contravened’</i> as a basis for giving a direction | Requirement of Authorised Officer to actually observe contravention replaced to allow officers to better regulate the possession and consumption of liquor so that an Authorised Officer may act on evidence provided to that officer so long as the officer holds a reasonable belief. |
| 10 | Remove <i>‘surrender any opened container or Liquor to the Authorised Officer’</i> | Council is not authorised to deprive a person of their property without providing for means for their return. In the case of liquor, it is not practical to allow impoundment and opportunity for reclaim. Accordingly, the taking of property without compensation or any other mechanism is removed. |

PART 3: FESTIVALS

| Clause | Proposed Amendment | Reason |
|--------------------|--|---|
| 11 | Clause deleted | This clause is not required. |
| 12 (now 11) | Removal of the word “Part” and changed to Local Law | The declaration of a ‘Festival’ affects the whole of the Local Law and not just the “Part” in which it sits. |
| 13 (now 12) | Remove sub-clause (b) | This is contained within sub-clause (a) and is not required to be re-stated. |
| 14 (now 13) | Remove the requirement to advertise in newspaper circulating generally in the municipality and replaced with Council’s website. | We are instructed that there is no newspaper in the area and therefore, we have adopted the Council’s website as the means of communication. |
| 15 (now 14) | Add possession or <i>‘control of’</i> any Liquor <i>‘other than in a sealed container’</i> <i>Add “other than in accordance with a declaration made by Council pursuant to clause 11”</i> | See above, Part 2. Creates the offence if a person consumes or has in their possession liquor other than in accordance with Council’s declaration. |
| 16 | Add <i>‘believes on reasonable grounds that a person is</i> | See above, Part 2. |

| | | |
|--|--|--|
| | <i>contravening or has contravened'</i> as a basis for giving a direction | |
|--|--|--|

PART 4: PRESCRIBED AREAS

| Clause | Proposed Amendment | Reason |
|----------------------------|--|---|
| 17 | Clause deleted | Clause not required. |
| 18 (now 16) | Deletion of the word "Part" and insertion of the words "Local Law". | |
| 19 (now 17) | Clause 1(b) amended to simplify clause so that the declaration specifies the hours of the prescribed area. | Simplify the workability of the clause. |
| 20 (now 18) | Removal of the requirement to advertise in a newspaper to Council's website. | No newspaper circulates in the municipality and the website is utilised for communication of the declaration. |
| 21 (no 19) | Add possession or ' <i>control of</i> ' any Liquor ' <i>other than in a sealed container</i> ' <i>Further amendments to ensure an offence and a requirement is created.</i> | See above, Part 2. |
| 22 (now 20) | Add ' <i>believes on reasonable grounds that a person is contravening or has contravened</i> ' as a basis for giving a direction | See above, Part 2. |

PART 5: ADMINISTRATION AND ENFORCEMENT (previously Offences and Reporting)

| Clause | Proposed Amendment | Reason |
|----------------------|--|---|
| 23 and 24 | Remove clauses | Substance of clauses substituted by new clauses, as below. |
| 22 | Add clause for consideration of applications | Allows for Council to set matters to be considered in determining whether to grant an application for a declaration of a Festival |
| 23 | Add clause creating offence for contravening or failing to comply with the Local Law | Replaces original offence clause |
| 24 | Add clause to authorise issue of infringement notices | Creates power of Authorised Officer to issue infringement notice for contravention of Local Law |

SCHEDULE 1: PENALTIES

| Proposed Amendment | Reason |
|----------------------------------|--|
| Add schedule of penalties | Brings penalties together in one place |