Submission from Climate Action Moreland
Proposed Moreland Council General Local Law 2018

Thankyou for this opportunity to review the draft Moreland Council General Local Law 2018. Please distribute this to all Councillors for their due consideration.

We think this is an opportunity to bring the General Local Law (2007) into line with current community standards and sentiments. As one of the active community groups in Moreland, we appreciate this chance to improve the local laws and how they are applied with justice and fairness.

We understand and appreciate that Councillors at their meeting in July have already considered and altered a number of sections of the proposed General Local Law which we had strong concerns on, specifically: on Causing obstruction, distribution of handbills and soliciting of money.

We also welcome the new clauses regarding significant trees, and provisions increasing controls over building sites with regard to noise, dust and other disturbances.

There are, however, several sections which we still find very problematic and we think need to be rejected or totally rewritten to take into account our strong concerns.

Camping in public places

2.7 Camping in a vehicle, tent, caravan or any other type of temporary provisional accommodation is permissible in public areas of the municipality that are prescribed by Council. Camping for recreational purposes is not permissible in other public areas unless:
   (a) a person is homeless or is in need of secure accommodation.
   (b) a person is experiencing challenging circumstances and is in need of additional support.

We are concerned to ensure that any overnight or 24/7 political protest or vigil are not hinded by this law. While overnight or camping protests and vigils are rare, they do occur in Moreland. I believe the last time this happened in Moreland was the Residents Against McDonalds protest in 1999 to stop the demolition of a 110 year old house at 1 Sussex street near the corner with Bell street. Protestors used a caravan for a lengthy period of 24/7 vigil and protest. See http://pandora.nla.gov.au/nph-wb/19991013130000/http://ram/taz.net.au/ram/index.html

Some union pickets are also put in place for 24/7 operation and involve temporary camping or caravan accomodation. We think political or union protest is a legitimate reason for camping in public places and any law that impedes this is unjust and out of touch with Moreland’s strong historical labour and social justice community sentiment.
5.8 A person must not tie an unsupervised animal to a bench, seat, table, pole, peg or any other structure in a public place.

There are parts of the municipality (as for instance Fawkner shopping precincts) where people often take their companion animals for a walk to the shops, leave them tied up unsupervised while they go inside to shop, then walk them home. Many elderly people engage in this active behaviour, and it provides substantial community and personal health benefits for these people in getting them to exercise along with their companion pet on a regular basis.

It is not unsupervised animals tied up that are the problem here, but perhaps this is designed for animals poorly trained and causing a nuisance? In which case this law is very poorly worded and targeted. This local law should be rejected as it will either be unenforced or enforced on a very selective and discriminatory basis.

This law has an implied conflict with Moreland Council’s Active Moreland plan, Moreland Health and Wellbeing Plan 2013 – 2017, and Domestic Animal Management Plan all of which encourage the physical activity of walking for health and wellbeing and exercise for pets. We need to acknowledge that taking companion animals to the local shops (and leaving them tied up unsupervised outside) is an important physical and social activity for some Moreland residents.

**Authorisation required for street art in or on a public place**

6.2 A person must not, without a permit, apply street art or allow street art on any part of a public place. Note: Nothing in this clause is intended to affect the operation of the Graffiti Prevention Act 2007.

Our concern with this is that it might be applied to chalk art statements applied to public pavement surfaces as part of protests and other community events. Chalk on pavements is a non-permanent marking often incorporated as part of street protests. It is sometimes utilised by children at these protests.

We think this is a legitimate form of communication and engagement with the public and reject that a permit should be required for use of this communication device as part of a protest or community event.

We are particularly concerned that children might be targeted and fall foul of this law for an activity that causes no damage or inconvenience to the public.
Authorisation required for portable advertising signs or other things in public places

6.3 Unless:
(a) in accordance with a permit; or
(b) to do so is specifically authorised by and in accordance with the Planning Scheme or a Planning permit issued under it, a person must not place or erect a portable advertising sign or other thing in, on or over a public place or allow that to occur.

We think this should be amended to say “portable commercial advertising signs or other commercial things in public places...” to make it clear that commercial advertising requires a permit, while community groups are able to freely advertise meetings and their events without need of a permit.

Soliciting trade and similar activities

7.1 Unless in accordance with a permit, a person must not in a public place or from premises adjacent to a public place, offer to sell goods or solicit or try to attract trade or business or tout or spruik or allow any person to solicit or try to attract trade or business or tout or spruik.

Permit required for selling in a public place

7.2 Unless in accordance with a permit, a person must not sell any good or service on or in a public place or from premises adjacent to a public place to a person in a public place.

Community groups, as part of their campaigning activities, often sell items as a way to fundraise for their continuing activities. Items such as badges and T-shirts are often sold for fundraising at stalls on the street. We think there should be a specific exclusion clause for non-profit community groups to solicit, trade and sell items without a permit.

If an exclusion clause cannot be considered, then permits should be deemed free for non-profit community groups and be issued for a year at a time. This is due to the nature of most community groups working on a volunteer basis with very limited monetary resources.

Busking

7.4 Busking is permitted without a permit in prescribed areas by Council.

I listened to the debate on this at the Council meeting, and I failed to be convinced of the arguments for restricting busking to prescribed areas. It has not been demonstrated that busking outside certain prescribed areas is currently a problem, has been a problem in the past or likely to be a problem in the future. This law is unnecessarily restrictive. The protest whereby citizens serenaded Adela Pankhurst outside Pentridge Prison in January 1917 would have probably run foul of this law. This law should be rejected as unnecessary, not justified, and not in alignment with community attitudes.
Furniture in a public place

7.5  
(a) A person must not, without a permit, place or cause to be placed any item of furniture in or on a public place.
(b) A person cannot be prosecuted under 7.5 (a) if the person is homeless or in need of secure accommodation.

We are particularly concerned regarding 7.5(a) and believe this may conflict with Council Disability Access policy. Community groups sometimes have card tables, folding chairs and other portable furniture utilised as part of their events or protests in public places. We feel that this local law is unjust for community groups in engaging with the public in public places. Card tables are needed for petitions, handbills and other literature to present and give out.

In particular, folding chairs allow infirm or elderly people to participate and attend community events and protests. We believe this local law is unjust and discriminatory, particularly against those citizens who may need temporary seating to engage and be part of public social events.

This local law is inconsistent and in conflict with Moreland City Council Disability Access and Inclusion Plan 2016-2020, specifically the plan vision which states “An inclusive Moreland community that enables people with disability, their families and carers to fulfil their potential as equal citizens.”; and the Objective 1.3 of Strategic use of statutory and regulatory roles “to lead and influence improved inclusion, participation and accessibility of private buildings (eg. private dwellings and businesses) and public spaces (eg. retail shopping precincts) for all members of the community.”

8.1 Unless in accordance with a permit, a person must not:
(a) erect a hoarding or overhead protective awning on a road;
(b) install a temporary or permanent crossing;
(c) occupy or fence off part of a road;

We are concerned that 8.1(c) may be used against community protests, social events, commercial transactions or even informal recreation, that occupy a street.

Streets are public spaces which are often occupied by protest marches and events for limited periods of time. This is done as often it is the only way to draw attention to an injustice. There is a strong tradition in Moreland of roads being occupied for a protest without a permit. This is a free speech issue, and one that local activist and artist Noel Counihan certainly stood up for in the 1933 Brunswick free speech fight, which our community pays homage to with the Free Speech memorial outside the Brunswick Mechanics Institute.

But, sometimes streets are also temporarily occupied for other reasons, as for example, real estate auctions. On occasion local streets are occupied for footy kicking recreation or a friendly game of cricket. We think this multi-use non-permit occupation and use of streets is a fundamental and democratic right and hence should not be legislated against as requiring a permit as part of the local laws.

A secondary concern is that 8.1(c) might be used against citizens deciding to legitimately occupy a parking space or spaces on a road according to the existing signage. I have participated in events in Melbourne which occupied legitimate parking bays as a protest (sit-in picnic) against the amount of resources devoted to cars and parking in the innercity and dearth of footpath space for community

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use to socialise. A cone fence was erected for safety from the passing traffic. I think this temporary fencing was quite legitimate for ensuring health and safety of pedestrians. Would this ‘occupation’ and ‘fencing’ fall foul of this law? Quite probably.

Attaching vehicles to a Council asset or public place

13.6 A person must not attach a vehicle to a Council asset or public place.

This is a problem in definition and wording making the intent very unclear and misleading.

Bicycles and other pedal-powered vehicles are defined as vehicles under the Victorian ROAD SAFETY ACT 1986. The inconsistency between the definition of ‘vehicle’ in the Road Safety Act and Moreland’s General Local Laws over bicycles leads to confusion. Compare the two definitions:

The Road Safety Act says:

"vehicle" means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes bicycle or other pedal-powered vehicle, trailer, tram-car and air-cushion vehicle but does not include railway locomotive or railway rolling stock;

The General Local Laws definition says:

“vehicle” means a conveyance which is designed to be or is propelled or drawn by any means, and includes a trailer and caravan, but does not include a train, tram, wheelbarrow, supermarket or shopping trolley, bicycle, toy vehicle or mobility device.

We find this local law, in it’s current wording, very misleading and not clear English arising from a different definition for ‘vehicle’ used at the state level. The “vehicle” definition in this document makes clear bicycles are excluded from the definition of vehicle, yet it’s absence of explanation in the actual by-law 13.6 makes the wording very misleading and confusing.

As it is currently worded without reference to the vehicle definition in the document, it would seem to make it illegal to attach one’s bicycle to a facility (bicycle parking hoops) which were placed there for that very purpose!

A further issue: there may be a need to specify that a person must not attach a bicycle or tricycle to a Council asset to cause significant pedestrian obstruction or impede disabled access and mobility. I am thinking here in particular of bicycles parked and locked on to railings on disability ramps impeding disability access, eg, at the Brunswick Baths.

This law needs to be significantly reworded to explain in clear english it’s intent. The definition of ‘vehicle’, to avoid confusion, should be kept as close as possible to that contained in relevant State Legislation.

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Climate Action Moreland