

RESPONSES TO QUESTIONS TAKEN ON NOTICE

COUNCIL MEETING 21 MAY 2025



Item 10.1 Community Safety Response

Question from Councillor Buckingham:

My understanding is that the legal advice that Council received about the local laws changes found that there would be implementation issues that would potentially make Council's actions incompatible with the Human Rights Charter. If the Council went through with such changes and such actions, how would a legal challenge come to the Council and what kind of costs would that incur on the City of Port Phillip.

Response:

A legal challenge to a Local Law can occur in two ways.

Firstly, an individual or organisation may challenge the validity of the Local Law itself by applying to the Supreme Court under the Local Government Act 2020. Alternatively, a person may appeal an infringement issued under the Local Law to the Magistrates' Court. In that case, they may challenge not only the validity of the infringement but also the Local Law itself.

Given that some organisations have expressed concern about the potential impact of the new Local Law on the Charter of Human Rights and Responsibilities, the first type of challenge (directly to the Supreme Court) may be more likely. It is also significantly more expensive, particularly depending on the number of days a proceeding may run.

It is hard to give an exact figure of legal costs, however for a one day proceeding at the supreme court it can cost from \$50,000 and up to \$150,000 depending on the level of legal representation Council uses.

Council officers will continue to seek legal advice as we further develop the proposed Local Law and respond to feedback from the community to understand any legal challenges that may result from any changed Local Law before presenting back to Council for decision on next steps.

Item 10.2 Local Law Response

Question from Mayor Crawford:

Is Council aware of how often the tip out law, in relation to drinking on public streets, is used since it had been enacted?

Response:

Council's Local Law regarding alcohol in public places dates back to 2009 and was introduced at the request of Victoria Police. Although laws already existed at that time to address public intoxication and antisocial behaviour, the view at the time was that a Local Law would complement those measures and provide another tool to help prevent alcohol-related issues in public spaces before they escalate.

This Local Law was only introduced after the Police signed a Memorandum of Understanding (MOU), agreeing to take the lead on enforcement in the field, while Council would handle back end administrative functions like processing fines and managing legal matters.

**Please note: Responses to any questions during Public Question Time and Councillor Question Time which were responded to during the meeting are included in the minutes of that meeting.*

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The main reason for Police leading enforcement in the field is due to the risks that can arise when dealing with intoxicated individuals—a responsibility they are better equipped to manage. In 2018, at the request of Police, the Local Law was amended to include stricter controls on beach drinking. While no formal MOU was signed that time, the same understanding around enforcement roles has been maintained.

Between 2009 and 2018 fifteen infringements were issued for having open alcohol in public, two fines in 2022 and seven in 2023 and none since that time. The Police process is to primarily tip out alcohol if people do not follow the direction to comply with the Local Law without fines needing to be issued. Council and Police do not keep records of Police 'tip outs' of alcohol, which remains a useful tool and requires the Local Law clause to do so, as it bans open containers of alcohol on designated Council land.

A case study of the use of this clause includes in 2023 when a group of people were gathering in Acland Street daily to consume alcohol and were creating amenity impacts on local residents and traders. Police issued fines and our Local Laws officers were stationed there every day for 2 weeks to disperse the group. The ability to discuss escalation to Police enforcement enabled consistent messaging until the group moved on.

Council's Local Law Officers continue to invest significant time patrolling Acland Street to manage alcohol-related issues, often without Police support due to resourcing issues. We continue to request Police support to conduct joint patrols around consumption of alcohol on public land.

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