

Local Law Community Impact Statement

City of Greater Dandenong

Local Law No.2 (General Local Law)

Council provides the following information to the community in respect of the proposed Local Law.

1. Introduction

Under the provisions of the *Local Government Act 1989*, all local laws sunset ten (10) years after the date they commence. With Council's current local laws due to sunset on 25 July 2021, it now opportune for to review its existing local laws.

Therefore, Council is proposing to update its current suite of local laws (**current Local Laws**). Those local laws being:

- Local Law No.2 (Municipal Amenity)
- Local Law No.3 (Road Management and Asset Protection)
- Local Law No. 4 (Municipal Places).

The proposed new *City of Greater Dandenong Local Law No.2 (General Local Law)* (**proposed local law**) will supersede and replace the current Local Laws.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council during the public consultation process required under the *Local Government Act 1989*.

2. Background

Local Laws are a form of local regulation that enables councils to make legislative controls that reflect the different circumstances of each municipality. The Local Law-making power attributed to councils comes from the *Local Government Act 1989*.

It should be noted that although the State Government has introduced the new *Local Government Act 2020 (the new Act)*, under the transitional arrangements for the new Act, the provisions relating to the making of a local law do not come into force until 01 July 2021. Therefore, Council has been required to ensure that this proposed local law is made in accordance with the provisions of the *Local Government Act 1989 (the Act)*

The current Local Laws sunset at midnight on 25 July 2021, and therefore they need to be renewed and updated before that date to incorporate changes in legislation and to reflect current issues within the municipality.

3. Overview of the Proposed Local law

The proposed Local Law is being made under s 111(1) of the Act and will operate throughout Council's municipal district.

The making of the proposed local law has also been an opportunity to combine Council's current local laws into one omnibus local law, in order to clarify and simplify the operation of our local law for the community and council officers.

In addition to the requirements of s 111 of the Act, the requirements of the State's '*Guidelines for Local Laws Manual*' (the Guidelines), have also been followed as per the requirements of s 111A of the Act.

The key aims of the guidelines are:

- to improve accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity, and transparency;
- to reinforce that 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;
- to reinforce that Local Laws should not allow discretions on the part of those administering or enforcing them without clear guidelines being in place.
- to ensure when Local Laws rely on other documents, such as Council policies, as performance measures, those documents are accessible to the public; and
- to have councils produce a *Local Law Community Impact Statement* for all new local laws.

The proposed Local Law will commence on the day following notice of its making being published in the Victoria Government Gazette and, unless it is revoked earlier, it will expire 10 years after commencement.

On commencement of the proposed Local Law, the current Local Law will be revoked.

The objectives of the proposed Local Law are to provide for the safety, order, and good governance of the City of Greater Dandenong in a way that is complementary to Council's Council Plan by:

- managing the uses and activities on roads and Council land so that Council is aware of uses or activities which may:
 - interfere with the safety and convenience of people travelling on or using roads or land; and
 - impede free and safe access for people, and in particular for those with sight and movement impairment or disabilities; and
 - cause damage to Council and community assets; and
 - create a danger or expose others to risk; and
 - be detrimental to the amenity of the area or the enjoyment of facilities on roads or land;
- managing, regulating and controlling uses and activities which may:

- be dangerous, cause a nuisance or be detrimental to the amenity of the area or the environment; and
- interfere with a healthy and safe environment in the municipal district for residents, workers and visitors; and
- providing for the administration of *Council's* powers and functions.

Under s 223 of the Act, Council is required to give public notice of the proposed Local Law and invite submissions for a period of at least 28 days.

The statutory consultation period will run from 25 May 2021 to 5:00pm on 22 June 2021.

Anyone who makes a written submission can request to be heard in support of their submission at the Ordinary Council Meeting which considers the making of the proposed Local Law, details of which will be provided.

4. Main changes

All the provisions of council's current local laws have been reviewed.

With council's current local laws being revoked on the commencement of the proposed local law, where a reference is made to a clause being amended or otherwise modified, reference is being made to a change of the current local law.

Not all changes have been included in this section, as by creating a single proposed local law, instead of the current three local laws, many areas of duplication in the current local laws have been addressed.

The focus of the review has been on improving:

- Clarity – which means improving the simplicity of the Local Law and removing ambiguity.
- Accountability – which means the openness and integrity of the process is improved.
- Accessibility – which means the user-friendliness of the local law and its ease of access and use is improved.
- Transparency- which means considering the explanation of processes and assessments associated with the local law.
- Safety – which means improving and protecting the wellbeing and health of the community by making a place safe through the minimisation of potential risks and/or dangers.
- Amenity – which means improving and protecting the quiet enjoyment of residents and visitors.

As an example, this focus has seen the removal of 14 permit types that were required under the current local laws. These changes have been made by improving the clarity (simplicity) and accessibility (user-friendliness) of the proposed local law, and by simply redefining some activities found under the current local laws.

Further as per the requirements of Schedule 8(2)(i) of the *Local Government Act 1989*, which requires that a “*local law must not duplicate, overlap or conflict with other statutory rule or legislation*”, the review has also seen several clauses of the current local law identified as being no longer required as the issue is managed via other legislation.

As an example, but not exhaustive:

Existing Clause	Legislation in Place
Local Law No.2 – Clause 7 – Vermin and noxious weed control	<i>Catchment and Land Protection Act 1994</i> – the local law duplicates the same obligations placed on landowners, as are contained in this legislation.
Local Law No.2 - Clause 32 – Fencing of Land Holding Livestock – Fencing to be erected and maintained to prevent livestock trespassing	<i>Impounding of Livestock Act 1994</i> – s 16A creates the same requirements
Local Law No.3 – Clause 21 – Abandoned Vehicles	<i>Local Government Act 1989</i> – Schedule 11 – Powers of Councils over traffic – s 3 identifies Council’s powers regarding the management of both unregistered and abandoned vehicles, and at Schedule 11 s 3(4) identifies when a council may consider a vehicle to be abandoned. (After a vehicle has not moved for 2 months.)

General Drafting Changes

Drafting Action/change	The problem the drafting of the proposed Local Law intends to address	What change? How does the drafting of the proposed local law help achieve objectives?	Benefit
Consolidation, restructure and alignment with best practice guidelines, updated legislative analysis and the use of competent legal advice.	<p>Difficult to find clauses and to navigate current suite of local laws</p> <p>Confusing local laws</p> <p>Lack of relevance or need</p> <p>Fails to address need</p> <p>Introduction of conflict between legislation, planning requirements and the local law</p>	<p>Consolidation into one local law.</p> <p>Improved structure</p> <p>Aligns to the State's guidelines for best practice</p> <p>Ensure the clauses of the local law are complimentary to existing legislation and the planning scheme</p>	<p>Clarity</p> <p>Accountability</p> <p>Accessibility</p> <p>Transparency</p> <p>Safety</p> <p>Amenity</p>
Council's policies and guidelines becoming part the local law	<p>Lack of clarity around requirements</p> <p>Inaccessibility of information</p>	Applicable council guidelines identified and available to the community	<p>Clarity</p> <p>Accessibility</p> <p>Accountability</p>
Improved enforceability	<p>Lack of clarity as to what mischief a clause is seeking to prevent</p> <p>Clauses included in the current local law that are not reflective of current issues</p>	<p>Redrafting of clauses to ensure they are enforceable</p> <p>Removing laws no longer required in the municipality</p>	<p>Clarity</p> <p>Accessibility</p> <p>Safety</p> <p>Amenity</p>
Better identification of the issue needing to be managed by way of permit	<p>Long, complex and sometimes confusing existing local laws.</p> <p>Provision to seek a permit for a use that is prohibited</p>	<p>Ensure it is easily understood what uses require a permit.</p> <p>Improved articulation of the permit process.</p>	<p>Clarity</p> <p>Accessibility</p> <p>Safety</p> <p>Amenity</p>

Specific Clause Changes (not exhaustive)

Action/Change as per proposed local law.	The Problem	Aimed Improvement	Suggested By
Clause 6 - Definitions	Potential for lack of clarity in the meaning of words and phrases	Some previous definitions amended, as well as the provisions of new definitions to aid improved understanding, clarity, enforceability and accessibility	Staff State Government Guidelines Legal Advisors
Clause 7 – Incorporation of Documents	Council’s assessment processes not easily accessible.	Incorporation of council’s guidelines into the local law improves accessibility and transparency	Staff State Government Guidelines Legal Advisors
Clause 8 – Clarity of approval process in relation to the requirements of the <i>Road Management Act 2004</i>	Confusion as to what is considered an approval under the provisions of the <i>Road Management Act 2004</i>	Clarity is achieved by ensuring approval/consent as required by the <i>Road Management Act 2004</i> is deemed to be evidenced by the granting of the applicable permit under the proposed local law.	Staff Legal Advisors
Clause 9 – Clarity as to what activities require a permit or council’s consent	Difficulty in identifying the need to obtain a permit, and/or the type of permit required.	Clarifies and lists activities that require a permit. Due to redefinition of permit types, number of permit types reduced by 14 to simplify and clarify Council’s permit processes for	Staff State Government Guidelines

		community members.	
<p>Clause 10 – Clarity as to offence and penalty for failing to obtain a permit when required.</p> <p>Provides transparency and direction as to the matters council may consider when assessing an application for a permit.</p>	<p>Lack of consistency in considering an application for a permit.</p>	<p>Improved consistency and transparency in the permit issuing process.</p>	<p>Staff</p> <p>State Government Guidelines</p> <p>Legal Advisors</p>
<p>Clause 11 – Footpath Activities – Provides transparency and direction as to the matters council may consider when assessing an application for a footpath activity permit.</p> <p>Clause 11(5) -New Provision –Covers off the requirements of TAN V KINGSTON 2011 VCAT 470 23 March 2011. (VCAT RED DOT CASE)</p>	<p>Lack of consistency in considering an application for a permit.</p> <p>Current local law is silent on whether liquor is permitted to be sold or consumed once a local law permit allowing outdoor dining has been approved.</p> <p>This means that a planning permit is currently required to be applied for to permit liquor being consumed in a footpath trading area.</p>	<p>Improved consistency and transparency in the permit issuing process.</p> <p>Eliminates the need to obtain a planning permit to allow liquor to be consumed in a footpath trading area. This proposed change therefore represents a saving in both time and money for the trader.</p>	<p>Staff</p> <p>State Government Guidelines</p> <p>Legal Advisors</p> <p>Planning (VCAT) Precedent</p>
<p>Clause 12 – Advertising Signs – Clarifies those</p>	<p>Lack of clarity as to who is responsible for the placing of an</p>	<p>Clarifies who is responsible for the placing of an</p>	<p>Staff</p>

responsible for the placing of an advertising sign on council land or in a council reserve.	advertising sign without a permit.	advertising sign without a permit. Improved enforceability.	
Clause 14 – Occupation of Roads - Clarifies uses that requires a permit to occupy a road	Lack of clarity concerning uses that trigger the need for a permit to occupy a road.	Clarifies uses that requires a permit to occupy a road	Staff
Clause 15- Opening or Excavation of Roads and Road Related Areas – Clarifies the exemptions from obtaining a permit in line with the <i>Road Management Act 2004</i> & clarifies the exemption provided to Council’s contractors when doing works on behalf of Council. - Informs applicants of what Council will be assessing when considering a permit application under this clause.	Need to better detail exemptions from obtaining a permit as per the <i>Road Management Act 2004</i> , and for Council’s contractors perform works on Council’s behalf. Lack of clarity as to assessment criteria for a <i>Civil Works Permit</i> .	Provides alignment with the <i>Road Management Act 2004</i> and provides clarity for Council’s contractors. Provides clarity to permit applicants and allows them to better consider their responses to issues concerning the impact their works may have on the community.	Staff
Clause 17 – Street Parties – Need for a permit removed. Council’s consent to conduct a street party is required, however, to encourage our community coming	Given the very poor uptake in this permit use, and the demonstrated benefits that flows from living in a connected neighbourhood, this activity should be	Whilst enabling council to monitor and control competing activities occurring on its streets, removing the cost associated with this use, may encourage the activity.	Staff

<p>together, the need for a permit and the subsequent permit fees, are abolished.</p>	<p>encouraged.</p>		
<p>Clause 25 – Fireworks (New Obligation) – Introduces the need to obtain a permit and formalises the need for the City of Greater Dandenong’s Fireworks Policy to be complied with.</p>	<p>No current need to obtain a permit for this activity.</p> <p>Additionally, there is a need to reinforce the enforceability of council’s <i>Fireworks Policy</i>.</p>	<p>This change clarifies the need to both obtain a permit prior to discharging fireworks and comply with council’s existing <i>Fireworks Policy</i>.</p> <p>This will help ensure that resident and pet owners are provided with advanced notice of when fireworks are to be discharged.</p> <p>Improved enforceability</p>	<p>Staff</p> <p>Community Feedback</p> <p>Legal Advisors</p>
<p>Clause 30 – Additional Requirements Applying to Commercial Premises – (New Obligations)</p> <p>(1) Aims to prevent a commercial operator from placing or storing items, vehicles, or equipment associated with their business activity on Council’s land.</p> <p>(2) Aims to ensure the amenity of a neighbourhood is not affected by the operation of</p>	<p>Need to be able to compliment the current Dandenong planning scheme obligations and <i>Environment Protection Act</i> requirements regarding business operators using council land as a storage area, which then impacts on the safety and amenity of other commercial operators, their staff and visitors/customers to the area.</p> <p>Need to ensure a premise through deliveries or collections, noise, or odour or waste</p>	<p>Improves enforceability by complimenting existing legislation.</p>	<p>Staff</p> <p>Community Feedback</p> <p>Legal Advisors</p>

<p>commercial or educational premise.</p>	<p>emissions does not affect the amenity of a neighbourhood.</p>		
<p>Clause 31(1)(c) – Domestic Waste, Recyclable & Green Waste – (New Obligation)</p> <p>Amendment required to formalise the time before a bin collection that a bin should be left out for collection.</p>	<p>Under the current local law a bin must be put inside the property within 24 hours of the bin being collected.</p> <p>There is no time limit indicating how long before a collection a bin may be left out.</p>	<p>Improves enforceability and is aligned with the intent of the existing local law.</p>	<p>Staff</p> <p>Legal advisors</p>
<p>Clause 35 – Parking Offences – (New Obligation)</p> <p>Aims to align the parking offences contained in the local law, with the owner / operator onus requirements as per Part 6AA of the Road Safety Act 1986, that applies to parking offences committed under State legislation.</p> <p>(5) Creates the specific offence of parking an unregistered trailer or vehicle in a public place.</p>	<p>It is often difficult and time consuming for officers to identify who was a vehicle’s driver when the vehicle was driven onto or parked on Council land, as illegally parking a vehicle on council land is not an offence covered under the State’s Road Rules.</p> <p>Officer’s are unable to act when unregistered vehicles are parked or left standing, not on a road or road related area, but in a public place.</p>	<p>Improves enforceability and ensures action can be taken to protect council’s land and other public places from the damage caused through people illegally using/parking vehicles.</p>	<p>Staff</p>
<p>Clause 38 – Groundwater Management – (New</p>	<p>Currently there are no controls imposed on developers or</p>	<p>Improved stormwater and environmental</p>	<p>Staff</p>

<p>Obligation)</p> <p>As more developments are built with basement or underground car parks, the issue of unfiltered groundwater containing contaminants entering council's stormwater system, and then eventually natural waterways needs to be considered.</p>	<p>landowners to ensure any groundwater being pumped from private basement carparks into council's stormwater system as a result of new development, is properly filtered/treated prior to it entering council's stormwater drainage system.</p>	<p>outcomes.</p>	
<p>Clause 39 – Incinerators, fires and open air burning.</p> <p>As per the requirements of Council's Notice of Motion 90, an exemption has been provided to allow the use of a chimenea, fire pit or other appliance constructed for the purposes of heating, and for while it is being used for that purpose.</p> <p>Clarity is also provided as to when a permit to burn in an industrial, rural or commercial area may be granted.</p>	<p>Need for the clause to be modified in order to meet the requirements of Notice of Motion 90 passed by Council on 14 September 2020, and subsequently as per the recommendation of a report to Council on 14 December 2020.</p>	<p>Clause modified to meet the requirements of Council.</p>	<p>Council via Notice of Motion 90 passed by Council on 14/09/2020 and the recommendation of a report to Council passed on 14/12/2020.</p>
<p>Clause 42(2) – Nature Strip Plantings and modifications (New Exemption)</p> <p>Creates the ability for</p>	<p>The current local law does not provide the ability for a person to plant vegetation on their nature strip,</p>	<p>Provides an exemption from the need to obtain a local law permit to plant vegetation on a nature</p>	<p>Staff</p>

<p>a person to plant vegetation on the nature strip of the property they own or occupy, without the need for them obtaining a permit, if any planting is done in accordance with the <i>City of Greater Dandenong Nature Strip Guidelines</i>.</p>	<p>without first obtaining a permit.</p>	<p>strip, if the planting is carried out in accordance with council's guidelines.</p>	
<p>Clause 47 – Behaviour Involving Vehicles – (New Obligation)</p> <p>New clause introduced at the request of the Victoria Police to provide them (Victoria Police) the ability to take action to control both “hoon events” and to discourage spectators or bystanders that are attracted to such events.</p> <p>NOTE: This offence will only be enforced by Victoria Police, in their role as authorised officers of council as per the requirements of the <i>Local Government Act 1989</i>, not by council officers.</p>	<p>Due to the lack of appropriate State legislation, Victoria Police have sought Council's assistance in developing a Clause under the proposed local law that will enable them to take enforcement action to control attendances at “hoon events.”</p>	<p>Improved amenity and community safety.</p>	<p>Victoria Police</p>
<p>Clause 52 – Shopping Trolleys</p> <p>Clarifies Council's expectations of both</p>	<p>Council's requirements regarding the management of shopping trolleys</p>	<p>Clause has been modified to better detail Council's expectations of proprietors and</p>	<p>Staff</p>

<p>proprietors and shopping complex management, in responding to issues concerning the management of shopping trolleys.</p>	<p>needs to be clarified.</p>	<p>shopping management complexes in managing shopping trolleys left in the public realm.</p>	
<p>Clause 59 – Cancellation of a Permit</p> <p>Clause 60 – Correction of permits</p> <p>Creates the process and introduces procedural fairness into the decision-making requirements of the senior officer or an authorised officer, when they are considering whether a permit should be cancelled or corrected.</p>	<p>Need to create a process to be followed when a senior officer is considering cancelling a permit, or when an authorised officer is considering correcting a permit.</p>	<p>These two clauses have been introduced to provide clarity to the process of cancelling or modifying a permit, and to ensure that procedural fairness is followed as part of that process.</p>	<p>Staff</p> <p>State Government Guidelines</p> <p>Legal advisors</p>
<p>Clause 62 – Exemptions</p> <p>Formalises that a senior officer can exempt a person or class of persons from the need to obtain a permit and identifies what the senior officer must have regard to when considering providing an exemption.</p>	<p>Need to create a process and identify who can provide an exemption to obtaining a permit.</p>	<p>This clause has been introduced to provide clarity to the process of providing an exemption to obtaining a permit, and to ensure that procedural fairness is followed as part of that process.</p>	<p>Staff</p> <p>State Government Guidelines</p> <p>Legal advisors</p>

5. Evaluation of the proposed local law.

In accordance with the Guidelines issued by the Minister for Local Government in relation to the making of local laws, Council has conducted an evaluation of the proposed Local Law. The evaluation is outlined in the following table.

Issue	Evaluation and Response
Objectives	<p>The objectives of the proposed local law are to provide for:</p> <ul style="list-style-type: none"> • the peace, order and good government of the municipality • a safe and healthy environment so that the community can enjoy a quality of life that meets its expectations; • the safe and equitable use and enjoyment of public places; • the protection and enhancement of the amenity and environment of the municipality; • the fair and reasonable use and enjoyment of private land; and • the uniform and fair administration of this Local Law
Measures of success of the proposed Local Law	<p>Council will measure the success of the proposed Local Law as follows:</p> <ul style="list-style-type: none"> • recording levels of compliance/non-compliance using inspection data; • review of enforcement actions taken, including official warnings, notices to comply, infringements and direct prosecutions; and • volume of complaints.
Legislative framework	<p>The Act gives councils broad powers to make local laws with respect to the functions or powers of a council.</p> <p>The proposed Local Law addresses matters within Council's functions and powers.</p>
Existing legislation that may be used instead	<p>There are several pieces of legislation that deal with some issues covered by the Local Law, such as, but not limited to, the</p> <ul style="list-style-type: none"> • <i>Building Act 1993</i> • <i>Building Regulation 2018</i> • <i>Domestic Animals Act 1994</i> • <i>Environment Protection Act 1970</i>

- *Filming Approval Act 2014*
- *Fire Rescue Victoria Act 1958*
- *Impounding of Livestock Act 1994*
- *Infringements Act 2006*
- *Local Government Act 2020,*
- *Local Government Act 1989,*
- *Planning and Environment Act 1987*
- *Public Health and Wellbeing Act 2008*
- *Road Management Act 2004*
- *Road Safety Act 1986* and
- *Summary Offences Act 1966*

However, in order to compliment existing State legislation, the proposed Local Law supports or adds to existing legislation. For example:

- The *Domestic Animals Act 1994* does not provide a limit to the number of pets kept on a property, whereas these limits are defined within the Local Law.
- The objectives of the *Environment Protection Act 1970* are supported by the controls proposed in the Local Law in relation a range of activities with adverse environmental impacts.
- The objectives of the *Fire Rescue Act 1958* are supported by the controls proposed in the Local Law in relation to burning off.
- The objectives of the *Planning and Environment Act 1987* are supported by the controls proposed in the Local Law in relation issues of community amenity and liveability.
- The *Public Health and Wellbeing Act 2008* 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. The proposed local law provides for this.
- The provisions of the *Road Management Act 2004* regarding the management of road openings and controlling works on roads are supported and complimented.
- The *Road Safety Act 2004* does not adequately cover the activities relating to vehicles left on a roadway for purposes of painting or dismantling a vehicle, nor does it provide Police with adequate powers to manage spectators who are attracted to attend "hoon driving events".
- The provisions of the *Summary Offences Act 1966* are supported regarding issues affecting the amenity and safety of the community.

In line with these examples, the proposed Local Law, like the Local Laws

	<p>it replaces, contains several provisions which complement existing legislation and provide a more appropriate local response, whilst not overlapping, duplicating or conflicting with existing State legislation.</p> <p>Therefore, the proposed Local Law does not contain any clauses where it is considered that state legislation alone would provide a more appropriate response to the issues concerned.</p>
Overlap with existing legislation	<p>As highlighted above, both the <i>Environment Protection Act 1970</i> and the <i>Road Management Act 2004</i> cover noise and work on roads, respectively.</p> <p>The provisions of the proposed Local Law supplement this State legislation. Council does not believe that any provision of the proposed Local Law overlaps, duplicates or causes an inconsistency with any existing legislation.</p>
Overlap with the planning scheme	<p>The proposed Local Law will be subordinate to the provisions of the <i>Planning and Environment Act 1987</i>.</p> <p>To the extent that there is any conflict or inconsistency, then the provisions of the <i>Greater Dandenong Planning Scheme</i> will prevail.</p>
Risk assessment	<p>No formal risk assessment has been undertaken.</p> <p>Council does not consider that there are any risks associated with the proposed Local Law.</p>
Legislative approach adopted	<p>The proposed Local Law adopts a minimal to medium impact regulatory approach, in as much as it prescribes with a level of detail the conduct and behavior of members of the public within council's municipality.</p> <p>This approach is considered appropriate in that the proposed local law provides for:</p> <ul style="list-style-type: none"> • Reasonable penalties • A minimal number of offence provisions • Where possible, inclusion of permits rather than prohibition of activities • Clear and transparent permit application, review processes and general conditions • Clear and transparent enforcement procedures <p>The approach taken by the City of Greater Dandenong is consistent with other Councils and is in line with best practice.</p> <p>The decision regarding which regulatory approach to take varies according to the level of mischief sought to be prevented, the</p>

	<p>perceived extent of non-compliance and the enforcement resources available.</p> <p>Importantly the proposed Local Law aims to educate the community, and the enforcement tools provided in the proposed Local Law allow for those breaching the Local Law to be made aware of their breach, and for them to take action to make the breach right, without the need for more punitive enforcement action.</p> <p>The proposed Local Law aims to ensure that the safety of the community and the potential for damage to Council assets is minimised where possible.</p>
Penalties	<p>The penalties applying to all existing Local Law clauses were considered and reviewed.</p> <p>The monetary value for a penalty unit regarding a Local Law breach is controlled by State Legislation via the applicable provisions of the <i>Local Government Act 2020</i> and the <i>Monetary Units Act 2004</i>.</p> <p>This means a penalty unit applicable for a breach of Local Law is set at \$100. Penalty units for breaches of a Local Law are not indexed annually, as are the penalty units(fines) for breaches of State legislation.</p> <p>This legislative control means that the maximum penalty a Magistrate can impose for a breach of a Local Law is 20 penalty units or \$2000. Courts rarely impose the maximum penalty that is available to them.</p> <p>The level of penalties fixed in the Local Law generally reflect: -</p> <ul style="list-style-type: none"> • relative risks to community health, safety and amenity; • potential cost to the community of a breach (say due to potential damage to Council assets and infrastructure); and • the deterrent benefit in each case. <p>Infringement Penalty</p> <p>An infringement penalty is the penalty which appears on an Infringement Notice.</p> <p>The <i>Victorian Attorney-General's Guidelines to the Infringements Act 2006</i> (the guidelines) has provided, in part, guidance concerning the setting of penalty levels when a breach of an offence is able to be enforced by the issuing of an infringement notice.</p> <p>The annexure to the guidelines' states that,</p>

	<p><i>“As a general rule, the infringement penalty should be no more than approximately 25% of the maximum penalty for the offence. However, a proportion of up to 50% can be considered where there are strong and justifiable public interest grounds.</i></p> <p>Accordingly, the proposed Local Law has followed the guidelines by setting all infringement penalties at 25% of the maximum penalty for the breach, except for three matters, where Council has set the infringement penalty at 50% of the maximum penalty for a breach.</p> <p>Those matters being:</p> <ul style="list-style-type: none"> • Occupied a road without a permit • Opened or excavated road or road related area without a permit, or • Tapped into or interfered with a Council drain without obtaining a Civil Works Permit. <p>In these matters Council has considered that there are strong and justifiable public interest grounds in setting the infringement penalty at 50% the maximum penalty in that the value of the penalty needs to represent a proper deterrent in order to protect Council’s infrastructure and assets in these specific cases.</p>
Permits	To satisfy the transparency and accountability principles of best practice Local Law making, permit applications and consideration of permits are detailed in Part 5 of the proposed Local Law, <i>Administration and Enforcement</i> .
Fees	The proposed Local Law makes provision for Council to prescribe fees from time to time by resolution – it is expected that fees will be set annually as part of Council’s Budget process.
Performance standards or prescriptive	Where possible drafting of the Local Law has adopted a performance-based approach, rather than using prescriptive measures.
Comparison with neighbouring and like Councils	A comparison has been done with like Councils, particularly Monash City Council, Casey City Council, Kingston City Council and Knox City Council, in order to ensure that there is a similar approach between municipalities.
Charter of Human Rights and	The City of Greater Dandenong, as a public authority under the <i>Charter of Human Rights and Responsibilities Act 2006</i> (‘the Charter’), must ensure that a proposed local law is not incompatible with a human right

Responsibilities	<p>or, in making a decision, fails to give proper consideration to a relevant human right.</p> <p>If a proposal restricts or interferes with a right, consideration needs to be given to determining whether the restrictions are reasonable and demonstrably justified under the Charter.</p> <p>The rights prescribed under the Charter have been reviewed to determine whether the proposed Local Law is incompatible with any of those rights.</p> <p>In summary, it is acknowledged that there is a minimal possibility that some of the controls, such as preventing camping on roads or Council land, may be considered incompatible with a person's right to the Freedom of Movement.</p> <p>Additionally, Council's ability to seize and confiscate (impound) items such a shopping trolley left on a road, may be considered incompatible with a persons' property rights.</p> <p>Consideration of the proposed Local Law against the Charter concluded that the ability to undertake a use or activity so long as certain standards were met or complied with, and the ability to apply for a permit or for alternate remedies to be found was a reasonable justification of the controls.</p> <p>The proposed Local Law provides procedural fairness and limits any impacts under the Charter through a person's ability to appeal a decision or permit made under this Local Law.</p> <p>The impact is further reduced by a person's right to have an enforcement penalty referred to a Court of competent jurisdiction for a decision.</p> <p>Additionally, the enforcement of Local Laws has been designed around processes that have regard to procedural fairness</p> <p>When conducting any investigations under the Local Law, authorised officers will also have regard to their obligations under the <i>Charter for Human Rights and Responsibilities</i>.</p> <p>The City of Greater Dandenong recognises that there are people within our community that are homeless or may have complex needs, such as a mental illness, addiction or are victims of domestic violence.</p> <p>Authorised officers will continue to perform their duties with consideration and compassion and provide referrals to other work areas in Council to assist in these circumstances.</p> <p>Unless a matter is urgent or could compromise public safety, council's enforcement processes provide ample opportunities to a person to</p>
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	<p>remedy a breach of the Local Law.</p> <p>In conclusion, there are no amendments to the proposed Local Law that are incompatible with a human right under the Charter.</p>
<p>National Competition Policy</p>	<p>The application of National Competition Policy (NCP) to local government in Victoria flows from the Competition Principles Agreement which was signed by the Commonwealth, State and Territory Governments in 1995.</p> <p>The Act requires councils to ensure NCP principles are applied to local laws as follows:</p> <p><i>A local law must not restrict competition unless it can be demonstrated that</i></p> <ul style="list-style-type: none"> ○ <i>the benefits of the restriction to the community as a whole outweigh the costs; and</i> ○ <i>the objectives of the local law can only be achieved by restricting competition.</i> <p>An analysis of changes in the proposed local law indicates that there are no issues adversely impacting National Competition Policy.</p>
<p>Consultation and Submission process</p>	<p>The proposed Local Law has been reviewed in consultation with Councillors, members of Council staff and Council's legal advisers.</p> <p>A community consultation process will be conducted in accordance with ss 119(2) and 223 of the Act.</p> <p>This will require Council to give public notice of its intention to make the proposed Local Law and provide members of the public with an opportunity to make a written submission to Council in relation to the proposed Local Law. Council will consider submissions received before making a final decision on the proposed Local Law.</p> <p>A person who makes a written submission is entitled to request (in the submission) to be heard by Council in support of his/her submission. When Council makes a final decision on the proposed Local Law, it must notify in writing each submitter of the decision and the reasons for the decision.</p> <p>This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council.</p>