

GREATER DANDENONG CITY COUNCIL

**LOCAL LAW NO. 3 of 4
2011**

ROAD MANAGEMENT AND ASSET PROTECTION

As amended by Local Law No.1 of 2015

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GREATER DANDENONG CITY COUNCIL
ROAD MANAGEMENT AND ASSET PROTECTION
LOCAL LAW
NO. 3 OF 4
2011

DIVISION 1 - PRELIMINARY PROVISIONS

1. TITLE

This Local Law will be known as the "Road Management and Asset Protection Local Law".

2. PURPOSE

The purpose of this Local Law is to:

- 2.1 prevent accidents and damage by regulating the growing of vegetation on land;
- 2.2 provide for the naming of roads and display of property numbers;
- 2.3 prevent the leaving of shopping trolleys in public places;;
- 2.4 regulate the placing of signs and goods on roads;
- 2.5 regulate street trading;
- 2.6 regulate street collecting;
- 2.7 regulate busking on roads and in public places;
- 2.8 regulate soliciting trade on roads and in public places;
- 2.9 regulate the use of toy vehicles;
- 2.10 regulate the establishment of outdoor eating facilities, including sale or consumption of alcohol;
- 2.11 regulate the repair of vehicles, and prohibit the deposit of spoil, on roads;
- 2.12 prohibit the abandoning of vehicles, and provide for the impounding of abandoned and derelict vehicles;
- 2.13 regulate the operation and use of motorised vehicles;

- 2.14 secure the physical assets of Council;
- 2.15 regulate the use of roads by heavy vehicles;
- 2.16 provide for and regulate the construction of vehicle crossings; and
- 2.17 regulate other activities on roads, including circuses, festivals, events, carnivals and other public gatherings.

3. **AUTHORISING PROVISION**

This Local Law is made under section 111(1) of the *Local Government Act* 1989.

4. **COMMENCEMENT, AREA OF OPERATION AND REVOCATION**

:

- 4.1 This Local Law:
 - a) commences operation on 26th day of July 2011;
 - b) operates throughout the municipal district of Council; and
- 4.2 Upon the coming into operation of this Local Law, Council's Road Management and Protection of Physical Assets Local Law No. 3 of 2001 is revoked.

5. **REVOCATION DATE**

This Local Law ceases to operate at midnight on the 25th Day of July 2021.

6. **DEFINITION OF WORDS USED IN THIS LOCAL LAW**

Unless inconsistent with the context or subject-matter, the following words and phrases are defined to mean or include:

"**advertising sign**" includes an "A" frame sign and a poster or panel which promotes an event, business, product, service or other activity.

"**Applicant**" means an applicant for a permit.

"**Authorised Officer**" means a person appointed by Council under section 224(1) of the *Local Government Act* 1989.

"**built up area**" means a road along which there is urban development or street lighting.

"**Council**" means the Greater Dandenong City Council.

"Council asset" means any equipment, vehicle, structure, fitting, or fixture, plant, tree or thing which is owned by or under the control of Council.

"deal in goods" means sell goods, offer goods for sale or invite an offer to purchase goods.

"garage sale" means sell goods, offer goods for sale or invite an offer to purchase goods which are displayed in an outbuilding or the outdoor areas of a residential property, or adjacent to a residential property.

"goods" means goods that are sold, offered for sale or are available for sale.

"handbill" includes a placard, notice, book, pamphlet, paper or advertisement including those of a religious nature, but does not include how-to-vote cards for Federal, State or Local Government elections.

"heavy vehicle" has the same meaning as in Victorian Road Safety Road Rules 2009.

"large vehicle" means a vehicle which is articulated, can seat more than twelve (12) passengers or exceeds 4.5 tonnes gross vehicle mass.

"livestock" means any animal of any species used in connection with primary production or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or cat.

"motorised vehicle" means a minibike, trail bike, motorbike, motor car, motor scooter, go-cart and any other vehicle which is propelled by a motor.

"municipal district" means the municipal district of Council.

"penalty unit" has the meaning set out in section 110 of the *Sentencing Act* 1991.

"permit" means a permit issued under this Local Law.

"permit-holder" means a person to whom a permit has been issued.

"public place" has the same meaning as in the *Summary Offences Act* 1966.

"renew" means replace or repair to its original condition.

"reservation" means anything constructed or located on a road which divides the road longitudinally, and includes a nature strip but excludes a line or series of lines marked on a road.

"reserve" means a parcel of land which is primarily used for recreational purposes, and includes a streamside reserve, public playground and sports ground.

"road" has the same meaning as in the *Local Government Act 1989* and includes a road vested in the Crown.

"road related area" means those areas, other than a footpath, described in Rule 13 of the Victorian Road Safety Road Rules 2009.

"toy vehicle" means a vehicle, other than a bicycle, ordinarily used by a child at play and includes a tricycle, scooter, skateboard, roller skates and roller blades.

"vegetation" excludes grass and grass-seed.

"vehicle" has the same meaning as in the *Road Safety Act 1986*.

"vehicle crossing" means a Council approved opening or artificial surface which assists access from a road to abutting land.

DIVISION 2 - VEGETATION

7. OVERHANGING VEGETATION

An:

7.1 owner; and

7.2 occupier

of land must not allow any vegetation growing on the land to encroach onto or above a -

a) road; or

b) reserve owned or occupied by Council -

to or at a height of less than three (3) metres above the surface of the road or reserve (as the case may be).

8. VEGETATION AT INTERSECTIONS

An:

8.1. owner; and

8.2. occupier

of land which is located at an intersection with a road must not allow any vegetation on that land to grow in such a manner as to

- a) obstruct; or
- b) cause a danger to -

the passage of traffic along that road by preventing or substantially retarding the clear view of drivers of vehicles travelling along it, whether of -

- i. other vehicles; or
- ii. signs or signals installed to control, direct, guide, regulate or warn drivers of other vehicles.

9. VEGETATION INTERFERING WITH PHYSICAL ASSETS

9.1 An:

- a) owner; and
- b) occupier

of land must not allow any vegetation growing on the land to interfere with any -

- i. road;
- ii. land owned or occupied by Council; or
- iii. Council asset.

9.2 A person must not, except with a permit, plant or cause to be planted any vegetation on:

- a) a nature-strip; or
- b) land owned or occupied by Council.

DIVISION 3 - PROPERTY NUMBERS

10. CHANGES TO ROAD NAMES

10.1 A person must not, without the written consent of Council, apply to a road a name which is not the name assigned by Council.

10.2 Before assigning a new name to a road, Council must:

- a) give public notice of its intention to assign a new name, in a newspaper generally circulating in the municipal district; and
- b) consider any written submissions which are received within the time specified in the public notice, being a time which is not less

than 14 days after the day on which the public notice was published.

10.3 Council must:

- a) give notice to the Place Names Committee before assigning a name or new name to a road;
- b) keep a register of all names of roads within the municipal district, including details of any new names which are assigned to roads; and
- c) adequately designate the name of each road by means of a sign.

10.3 Nothing in this clause applies to any freeway or any supplementary name applied to the entire length of a declared road.

11. PROPERTY NUMBERS

11.1 A person who owns or occupies land must display on the land the number allocated to the land, so that the number is clearly visible from the road frontage.

11.2 For the purposes of Clause 11.1, a number is deemed to be clearly visible if it can be read at any time, at a distance of five metres from the property line abutting the road on which the property is located. .

DIVISION 4 - SHOPPING TROLLEYS

12. SHOPPING TROLLEYS

12.1 A person must not leave a shopping trolley in a public place except in an area designated for that purpose.

12.2 If a shopping trolley has been left in a public place (other than in an area designated for that purpose), an Authorised Officer may direct the owner of the shopping trolley, or the person in charge of the retail premises from which it has apparently been transported, to remove the shopping trolley.

12.3 A person to whom a direction has been given under clause 12.2 must comply with that direction.

DIVISION 5 - SECONDARY ACTIVITIES ON ROADS AND IN OTHER PLACES

13. ADVERTISING SIGNS AND MERCHANDISE

13.1 A person must not, without a permit;

- a) place;

- b) cause to be placed;
- c) hang; or
- d) cause to be hung -

any advertising sign, goods or a motor vehicle which is offered for sale -

- i. on or above a road;
- ii. on a reservation;
- iii. in, on or above a public place;
- iv. on land owned or occupied by Council.

13.2 A person must not:

- a) unload any goods onto -
 - i. a road;
 - ii. a public place;
 - iii. a reservation; or
 - iv. land owned or occupied by Council; or
- b) leave goods delivered for the use of or sale by him or her on -
 - i. a road;
 - ii. a public place;
 - iii. a reservation; or
 - iv. land owned or occupied by Council

where such goods obstruct:

 - i. a road;
 - ii. a public place;
 - iii. a reservation; or
 - iv. land owned or occupied by Council

or any part of it.

- 13.3 A person must not, without a permit :
- a) display;
 - b) sell; or
 - c) offer for sale -
- goods carried about or placed -
- i. on the person;
 - ii. on any animal; or
 - iii. in any movable conveyance.
- 13.4 A person must not, without a permit, erect or establish in a public place:
- a) a vehicle;
 - b) caravan;
 - c) tent;
 - d) Stall;
 - e) Trailer;
- or similar facility for the purposes of selling goods or offering goods for sale.
- 13.5 Nothing in clause 13.3 or 13.4 precludes Council from:
- a) calling for expressions of interest or tenders;
 - b) conducting a ballot; or
 - c) imposing licensing conditions
- for the right to sell goods or offer goods for sale in the manner described in clause 13.3 or 13.4.
- 13.6 A person must not, without a permit:
- a) collect, or authorise or permit the collection of money in a public place.
- 13.7 Council may, by resolution, prohibit any or all of the activities allowed by Clauses 13.1, 13.2, 13.3 or 13.4:
- a) for any period of time nominated in the resolution;

- b) in any location specified in the resolution;
- c) in respect of any one activity or group of activities nominated in the resolution; or
- d) in any combination of the above.

13.7 Prior to making any resolutions under Clause 13.6, Council must have regard to any policy, codes of practice, standards or guidelines adopted by Council in respect of community consultation.

14. SALE OF GOODS

- 14.1 A person must not, without a permit, sell or offer for sale any thing or service in any public place or road related area.
- 14.2 An occupier of a residential property must not, without a permit, conduct or allow to be conducted on that property, more than three garage sales in any one calendar year.

15. BUSKING

A person must not, without a permit:

- 15.1 play a musical instrument;
- 15.2 sing;
- 15.3 give a recitation;
- 15.4 perform magic, juggling, music, puppetry or dance;
- 15.5 draw a message, picture; or
- 15.6 perform any other form of entertainment

on a road or in a public place.

16. OUTDOOR EATING FACILITIES

A person must not, without a permit, establish an outdoor eating facility on a road or reserve owned or occupied by Council.

17. PERMITS

- 17.1 In considering an application for a permit in respect of any of the activities allowed by Clauses 13, 14, 15 or 16 an Authorised Officer must consider, as appropriate:
 - a) whether the proposal provides for unimpeded and dignified access for all - consistent with the *Disability Discrimination Act 1992*.

- b) how the proposal assists with the provision of a practical balance between the competing needs and interests of pedestrians and businesses.
- c) whether the proposal will impact upon the safety of pedestrians, motorists and businesses through the development of an unsafe layout.
- d) whether the proposal is compatible with existing streetscapes and street furniture.
- e) how the proposal increases diversity within commercial precincts, and helps promote the City of Greater Dandenong's strip shopping areas as vibrant commercial and community precincts.
- f) whether the proposal includes an intention to sell or otherwise supply liquor for consumption at an outdoor eating facility.
- g) Any other relevant matter.

17.2 Permits issued in respect of any of the activities allowed by Clauses 13, 14, 15 or 16 may contain conditions relating to the:

- a) specific location of the activity;
- b) size, style, condition and mobility of signs, display units, furniture or other items permitted;
- c) amount of space allowed for a particular activity;
- d) maximum total advertising area in displays;
- e) permit operating times;
- f) sale and consumption of liquor;
- g) safety requirements such as weighting of items to prevent them from being blown over;
- h) prohibition of obstruction to:
 - i. the safe, continuous and dignified access of pedestrian traffic along the footpath;
 - ii. the movement or safe operations of vehicular traffic along a road or intersection;
 - iii. visibility or lines of sight at an intersection of a Road (or private access).

- i) requirement for permit holders to remove any items that are the subject of the permit, to facilitate access for works by Council, utility providers or emergency services; or to facilitate public events.
- j) maintaining cleanliness and appearance of permit area;
- k) illumination of signage or displays;
- l) requirement to remove items as requested to do so by an Authorised Officer;
- m) colour contrasting of items to ensure that they do not blend into the surrounds;
- n) any other relevant matter.

18. CONTROL OF TOY VEHICLES

A person must not use or allow another person to use a toy vehicle on a road in such a way as to:

- a) inconvenience;
 - b) obstruct:
 - c) hinder;
 - d) endanger;
 - e) alarm; or
 - f) prevent the free passage of -
- other users of the road.

19. REPAIR OF VEHICLES

A person must not dismantle, paint, carry out maintenance on or repair a vehicle on a road except where it is necessary to enable the vehicle to be removed or so that it can be driven away within one hour of a request by an Authorised Officer to do so.

20. OBSTRUCTIONS GENERALLY

A person must not, except with a permit, obstruct a road or any part of a road.

DIVISION 6 - ABANDONED AND DERELICT VEHICLES

21. ABANDONED VEHICLES

A person must not:

- 21.1 allow any vehicle not currently registered with or which has no permit from the Roads Corporation or any other relevant authority to be left standing in any public place; or
- 21.2 allow any vehicle currently registered or which has a permit from the Roads Corporation or any other relevant authority to be left standing continuously in any public place for a period in excess of seven consecutive days.

DIVISION 7 - HEAVY AND LARGE VEHICLES

22. KEEPING OF HEAVY AND LARGE VEHICLES

22.1 An:

- a) owner; or
- b) occupier

of any land must not, without a permit,

- c) keep;
- d) repair;
- e) service; or
- f) dismantle

a heavy or large vehicle on or adjacent to the land.

22.3 In considering whether or not to issue a permit under Clause 22.1, the Authorised Officer must consider, as appropriate:.

- a) the likely impact on the residential amenity of the neighbourhood as a result of:-
 - i. the intrusion of heavy vehicle traffic;
 - ii. excessive noise from heavy vehicles;
 - iii. pedestrian and motorist safety;
 - iv. the likely damage to be caused to Council assets and street trees;

- v. fumes or related smells resulting from the parking of heavy vehicles;
 - vi. the parking of the vehicle forward of the building line.
 - b) the traffic function, traffic volume and width of other roads in the vicinity;
 - c) whether the unobstructed sight distance when exiting the property is capable of being a minimum of eighty (80) metres;
 - d) whether the manoeuvring requirements of the vehicle and the roadway width will enable the vehicle to be turned within a maximum crossing width of four (4) metres;
 - e) any load limit restriction in force on the relevant road;
 - f) whether the property is of sufficient size and layout to enable the vehicle to be properly garaged;
 - g) whether the owner/driver of the vehicle lives at the address where the vehicle is to be kept?
 - h) any valid objections raised by neighbours (neighbours will be invited to comment on applications;
 - i) any other relevant matter.
- 22.4 Permits issued in respect of this clause are deemed to have the standard conditions set out in Clause 22.6
- 22.5 Additional conditions may be applied to permits issued in respect of this clause, to address issues specific to an individual site or situation.
- 22.6 The standard permit conditions that apply to all permits issued under Clause 22.1 are that:
- a) The vehicle must be parked on an established driveway or in a rear yard of the property.
 - b) The vehicle may not be parked in the front setback of a property.
 - c) The vehicle must not be driven in reverse from the property onto the Road.
 - d) The vehicle must not be carrying a load when brought onto the property.
 - e) The vehicle must not be started, driven or have its engine running on the property before 6.00 am or after 7.00 pm on any day.
 - f) The vehicle must not be repaired, washed or maintained on the property or on any adjacent road.
 - g) The vehicle must not be parked on any adjacent Road (or any other Road) for more than one hour.
 - h) If parked on a road during the hours of darkness, the vehicle's parking lights must be illuminated.

- i) The vehicle must not cause a nuisance to neighbours, from noise or smell.
- j) The property must be kept in a clean and tidy condition.
- k) There are to be no oil drums, large vehicle parts or other large associated articles on the property.
- l) The requirements of the Planning Scheme or any planning permit for the site must be complied with.

DIVISION 9 - MOTORISED VEHICLES

23. USE OF MOTORISED VEHICLES

A person must not operate, leave standing or otherwise use any motorised vehicle other than:

- a) on a road;
- b) on land owned or occupied by him or her; or
- c) on land in respect of which the owner or occupier has permitted the motorised vehicle to stand or be operated or used.

DIVISION 10 - COUNCIL ASSETS

24. INTERFERENCE WITH COUNCIL ASSETS

A person must not, without a permit:

24.1 destroy, deface, damage or interfere with:

- a) a road;
- b) land owned or occupied by Council; or
- c) a Council asset;

24.2 destroy, deface, damage or interfere with anything on:

- a) a road;
- b) land owned or occupied by Council; or
- c) a Council asset;

24.3 use any land owned or occupied by Council:

- a) for storing or depositing material; or
- b) as a means of vehicular access to adjoining land.

DIVISION 11 - SEWERS AND DRAINS

25. SEWERS AND DRAINS

A person must not, without a permit:

25.1 destroy;

25.2 damage; or

25.3 tap into -

any drain under the control of Council.

DIVISION 12 - VEHICLE CROSSINGS

26. PERMANENT VEHICLE CROSSINGS

26.1 An Authorised Officer may, serve a written notice on the:

a) owner; or

b) occupier

of land to which vehicles gain access, requiring such person/s to construct a vehicle crossing to that land in accordance with the notice.

26.2 An Authorised Officer may, if satisfied that a vehicle crossing is in a state of disrepair, serve a written notice on the:

a) owner; or

b) occupier

of land responsible or apparently responsible for that vehicle crossing requiring such owner or occupier to repair or reconstruct the vehicle crossing in accordance with the requirements specified in the notice.

26.2 An Authorised Officer may, if satisfied that a vehicle crossing is no longer serving the purpose for which it was originally constructed, serve a written notice on the :

a) owner; or

b) occupier

of land responsible or apparently responsible for that vehicle crossing requiring such owner or occupier to -

- i. remove the vehicle crossing; and
- ii. reinstate the area from which the vehicle crossing was removed

in accordance with the requirements specified in the notice.

DIVISION 13 - OTHER ACTIVITIES ON ROADS

27. OTHER ACTIVITIES ON ROADS

A person must not, without a permit :

- 27.1 occupy or fence off part of any road which is under the control of Council;
- 27.2 erect a hoarding or overhead protective warning on or over any road which is under the control of Council;
- 27.3 excavate or make a hole in any road which is under the control of Council; or
- 27.4 reinstate an excavation or a hole on any road which is under the control of Council.

DIVISION 14 - STREET PARTIES, FESTIVALS AND PROCESSIONS

28. STREET PARTIES, FESTIVALS AND PROCESSIONS

28.1 A person must not organise, hold or participate in a:

- a) street party;
- b) procession;
- c) rally;
- d) demonstration;
- e) festival;
- f) carnival;
- g) like event; or
- h) other public gathering

in or on any road, public place or reserve, unless a permit has been obtained for that activity.

- 28.2 In considering whether or not to issue a permit under sub-clause 28.1, Council must consider, as appropriate:
- a) whether appropriate traffic management planning has been prepared for the event;
 - b) whether there should be notification of property occupiers within a reasonable radius of the event;
 - c) if applicable, whether an appropriate food safety management plan has been prepared;
 - d) whether the agreement of the Victoria Police and the responsible Road Authority has been obtained and their requirements met, including an appropriate Traffic detour signing scheme;
 - e) whether an Emergency Management Plan is required;
 - f) the group of people or the organisation on whose behalf the application is being made;
 - g) the streets which are sought to be closed;
 - h) the date and times for the event;
 - i) those who are being invited to the event;
 - j) any proposals for fireworks to be included in the event;
 - k) proposed arrangements for cleaning and returning the area to its pre- event condition; and
 - l) any other relevant matter.
- 28.3 Where an application is made under sub-clause 28.1 and that application would, if granted, involve a road closure, such application must be received by Council at least forty-five (45) days before the date on which the event is to take place.
- 28.4 A permit may be subject to conditions, including conditions in respect of any of the matters set out in Clause 28.2.
- 28.5 A person must not conduct a circus on any land owned by or vested in Council.

DIVISION 15 - GENERAL PROVISIONS

29. APPLICATIONS FOR PERMITS

- 29.1 Any person applying for a permit under this Local Law must lodge with Council:
 - 29.1.1 an application in a form approved by Council; and
 - 29.1.2 any application fee fixed by a resolution of Council.
- 29.2 Before considering any such application, Council may require the Applicant to:
 - 29.2.1 give notice of the application to any persons whom Council considers may be detrimentally affected by the grant of the application; and
 - 29.2.2 publish notice of the application in a newspaper generally circulating in the municipal district.
- 29.3 Every notice given or published must consist of:
 - 29.3.1 a true copy or summary of the application;
 - 29.3.2 an indication that Council will consider the application after the expiry of 14 days following the giving or publication of the notice;
 - 29.3.3 an indication that all persons affected by the grant of an Application may send to Council any written submissions they wish to make in relation to the application; and
 - 29.3.4 an indication that all written submissions received within 14 days of the date of the notice will be taken into account in the determination of the application.
- 29.4 Where Council has required the giving or publication of a notice it must not further consider the application until:
 - 29.4.1 it is satisfied that the Applicant has given or published the notice in the required manner; and
 - 29.4.2 at least 14 days have elapsed since the giving or publication of the notice.
- 29.5 All written submissions received within the 14 day period must be considered by Council.
- 29.6 In determining whether to grant a permit, the matters to which Council may have regard include whether the application complies

with any policy, codes of practice, standards or guidelines adopted by Council.

29.7 Council may in its discretion:

- a) grant an application;
- b) grant an application with conditions; or
- c) refuse to grant an application.

29.8 Where a permit has been issued with conditions, the permit holder must, unless the permit holder is excused from complying with the conditions in writing, by an Authorised Officer, comply with those conditions, at all times.

30. FORM AND OPERATION OF PERMIT

Unless otherwise provided in this Local Law, any permit granted by Council shall:

- a) be in a form approved by Council; and
- b) not be operative until the Applicant pays the permit fee.

31. CURRENCY OF PERMIT

31.1 Unless it is sooner revoked or renewed, any permit will continue in force for the period specified in the permit, or, if no period is specified, for a period of 12 months from the date of its issue or renewal.

31.2 A permit-holder must not assign, transfer or encumber his or her permit.

32. REVIEW OF DECISIONS

32.1 Any Person who is aggrieved by a decision made in the administration or enforcement of the Local Laws may apply for a review of that decision. All persons who may be so affected shall be advised of this right.

32.2 Requests for review must, in the first instance, be made in writing. Submissions in support of the request may be made in writing or orally.

32.3 The right given by this clause does not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under the Local Laws.

- 32.4 In reviewing any decisions, regard must be given to any policy, Standards, guidelines or codes of practice adopted by Council.

33. CORRECTION OF PERMITS

- 33.1 Council may correct any permit issued under this Local Law if the permit contains:
- a) a clerical error or an error arising from an accidental slip or omission; or
 - b) an evident and material miscalculation of figures or a material mistake in the description of a person, thing or property referred to in the permit.
- 33.2 Council must give written notice of the correction to the permit-holder.

34. REVOCATION OF PERMIT

If, in the opinion of Council:

- a) a permit-holder has failed to comply with any conditions of the permit;
- b) there has been a material misstatement or concealment of fact in relation to the grant of the permit; or
- c) there has been a material change of circumstances since the grant of the permit -

it may revoke the permit.

35. REGISTER OF PERMITS

- 35.1 Council must keep a register of all permits issued under this Local Law.
- 35.2 Council must note the:
- a) correction; and
 - b) revocation -
- of any permit in the register.

36. SAVING

- 36.1 Nothing in this Local Law shall require a person to obtain or comply with a permit described in this Local Law if the thing in respect of which a permit is required is a thing allowed by a permit issued under an Act.

- 36.2 Council may exempt any person from the operation of this Local Law (or any provision contained in this Local Law) whether in whole or in part.

37. NOTICE TO COMPLY

- 37.1 If an Authorised Officer reasonably suspects that:

- a) an owner of land;
- b) an occupier of land; or
- c) another person -

has contravened or failed to comply with any provision in this Local Law, the Authorised Officer may serve a notice to comply on that owner, occupier or person.

- 37.2 A notice to comply may direct the owner, occupier or person to do something or refrain from doing something to ensure compliance with the relevant provision.

- 37.3 An owner, occupier or person on whom a notice to comply is served must do the thing or refrain from doing the thing (as the case may be) in accordance with the notice, and do so:

- a) in any manner; and
- b) on or before any date -

which is described in the notice.

38. IMPOUNDING THINGS

- 38.1 If an Authorised Officer finds a person contravening or failing to comply with any clause of this Local Law, the Authorised Officer may arrange for any thing:

- a) in the custody or control of that person; and
- b) designed or intended to facilitate the contravention or failure to comply -

to be removed to a place appointed or approved by Council, and be retained there subject to this Local Law.

- 38.2 Where any thing has been impounded in accordance with clause 38.1, an Authorised Officer may serve a notice on the person from whose custody or control it was removed.

- 38.3 Each notice must:

- a) be served personally or by registered mail;

- b) be in a form approved by Council; and
- c) indicate how the thing can be reclaimed.

39. SURRENDER OF THINGS

Any thing that has been impounded in accordance with clause 38.1 must be surrendered to the person from whose custody or control it was removed, or any person acting on that person's behalf, if:

- a) in the event of a claim being made by a person acting on behalf of the person from whose custody or control the thing was removed, satisfactory evidence is provided of the former's authority from the latter; and
- b) in any event, there is paid to Council a fee fixed by a resolution of Council.

40. POWER TO SELL, DESTROY OR GIVE AWAY

40.1 If seven (7) days elapse from the removal of the thing to a place appointed or approved by Council, and the thing is not surrendered to:

- a) the person from whose custody or control it was removed; or
- b) a person acting on behalf of the person described in clause a), Council may:
 - i. destroy the thing;
 - ii. deliver the thing to a municipal tip;
 - iii. give the thing away; or
 - iv. sell the thing by auction, public tender or private sale.

40.2 Where any thing is sold in accordance with paragraph (b) of clause 40.1, and the net proceeds from sale exceed the amount expended by Council in exercising its powers under this Local Law, the moneys must be paid into a trust account maintained by Council and if the moneys are not claimed by a person who satisfies Council that he or she was the owner of the thing when it was impounded, within one (1) year of their receipt, they shall cease to be payable to a person of the type described in clause 39.

40.3 Nothing in Clause 39 shall preclude Council from destroying any thing at a time earlier than the time described in clause 40.1 if, in the opinion of Council or an Authorised Officer, the thing:

- a) has perished; or

- b) is prejudicial to health.

41. OFFENCES AND PENALTIES

- 41.1 A person who contravenes or fails to comply with this Local Law is guilty of an offence, and liable to a penalty for an initial offence, the penalty set out in this Local Law or, if no penalty is set out:
- a) a penalty not exceeding 10 penalty units;
 - b) for a subsequent offence, a penalty not exceeding 20 penalty units; and
 - c) for a continuing offence, a penalty not exceeding two (2) penalty units for each day after conviction for the offence, during which the contravention continues.

42. INFRINGEMENT NOTICES

- 42.1 As an alternative to prosecution, an Authorised Officer may, in accordance with section 117 of the Act and the provisions of the Infringements Act 2006, issue and serve an infringement notice or Official Warning serve an infringement notice on a person who, in the opinion of the Authorised Officer has contravened this Local Law.
- 42.2 Unless clause 42.3 applies, the penalty for an offence for which an infringement notice is issued is fixed at 2.5 penalty units.
- 42.3 The penalty for an infringement is fixed at:
- Clause 7 – 1.25 penalty units
 - Clause 11 – 1.25 penalty units
 - Clause 12 – 0.5 penalty units
 - Clause 19 – 1.25 penalty units
 - Clause 25 – 2.5 penalty units if a natural person, 6.25 Penalty Units if an incorporated body
 - Clause 26 – 2.5 penalty units if a natural person, 6.25 Penalty Units if an incorporated body.

This Local Law was made by Resolution of the Greater Dandenong City Council on the 27th Day of June 2011.

The Common Seal of the Greater)
Dandenong City Council was)
hereunto affixed in the presence of:)

..... Chief Executive Officer

..... Councillor