

# Local Law No 2 - 2011

## Streets & Roads



# Community Impact Statement



**WELLINGTON**  
SHIRE COUNCIL

*The Heart of Gippsland*

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## **PART A – GENERAL COMMENTS**

### **1. Background**

In accordance with the *Wellington 2030 Strategic Vision* (Wellbeing and Safety and Development Themes) and the *Council Plan 2010-2014* (Development objective), Council has undertaken a review of Local Law No. 2 – 2005 Streets and Roads.

The *Local Government Act* 1989 dictates that the current Local Law will sunset in December 2014. However, an assessment of the current local law reveal that such a review was required before this date to ensure that the laws are meeting Council and community needs.

This review is ultimately aimed to achieve higher standards of community safety and amenity through a revised Local Law No. 2 Streets and Roads.

The most significant change to this Local Law is the expansion of the alfresco dining provisions to allow controlled consumption of alcohol in certain circumstances. In addition minor amendments, including formatting changes, have been made throughout the document to clarify or enhance the application of the provisions contained within the Local Law.

The following Local Laws have been removed, as there is existing legislation or controls that cover the items and inclusion in the Local Law is unnecessary:

- Disabled persons parking scheme
- Fences at intersections
- Council to approve road names

As an outcome of this review, Council now proposes to make Local Law No. 2 – 2011 Streets and Roads.

### **2. Objective**

The objectives of this Local Law are to:

Provide for those matters that require a local law under the Local Government Act 1989 and any other Act;

- a) Prohibit, regulate and control activities, events, practices and behaviour in places so that no nuisance is caused and there is no detriment to the amenity of the neighbourhood, to a person or to a person's real or personal property;
- b) Regulate and control activities on Roads in a fair, equitable and safe manner, which does not compromise the primary need for the passage of people and goods;
- c) Maintain safe and unobstructed passage for pedestrians in line with the *Disability Discrimination Act 1992*;
- d) Provide for the administration and exercise of Council powers and functions;
- e) Provide for the peace, order and good government of the Municipal District of the Wellington Shire; and

- f) Repeal any redundant local laws.

## **PART B – COMMENTS ON PROPOSED LOCAL LAW NO. 2 – 2011 STREETS AND ROADS**

Measures of success of proposed Local Law	<p>Council will measure the success of Local Law through:</p> <ul style="list-style-type: none"> <li>- the number of permit applications received to undertake activities that require such a permit</li> <li>- the number of notices to comply issued</li> <li>- the number of infringement notices issued</li> </ul> <p>Council will review the operation and effectiveness of this Local Law annually with a report being prepared identifying any issues of significance and highlighting the measures of success. This report may contain details of any other Local Law as made by Council.</p>
Existing legislation that might be used instead	The proposed Local Law has been carefully prepared and Council believes that all items dealt with within the law are not dealt with in other legislation.
State legislation more appropriate	The proposed Local Law has been carefully prepared and Council believes that all items dealt with within the law are not dealt with in other Victorian State legislation.
Overlap of planning scheme	The proposed Local Law has been carefully prepared and Council believes that items dealt with in the law are not dealt with by the planning scheme.

### **1. Risk Assessment**

<b><i>Risk</i></b>	<b><i>Method in which Council plans to manage exposure</i></b>
Community not aware of the Local Law obligations (if adopted)	Community consultation will occur before adoption. After adoption the Local Law will be available on Council's website and service centres. Local Laws Officers will serve an educational role in their day-to-day interactions with the community. Specific items within the law requiring a more focused education campaign/targeted information will be identified and a program commenced.
Cost of having to obtain permits for certain activities may cause financial hardship	CEO or delegate has power to waive or reduce fees if/when it is deemed appropriate to do so.
Permitted non-Council activities on Council land or otherwise causing public	Permit applicants are required to have public liability insurance before a permit

<b>Risk</b>	<b>Method in which Council plans to manage exposure</b>
liability exposure	may be granted.
Overlap with other legislation	No overlapping legislation identified. If legislation is identified or created during the operational period of this local law, the legislation takes precedence over the Local Law.
Failure to request and/or hear public submissions on proposed Local Law.	Submissions will be called for and heard in accordance with the <i>Local Government Act 1989</i> .
Other agencies not aware of new provisions within Local Law.	Other relevant agencies will be consulted before the proposed Local Law is presented for adoption.
Legislative approach adopted	<p>Council is of the view that Local Law No. 2 – 2011: Streets and Roads is necessary to provide enhanced amenity and safety to the community.</p> <p>The proposed Local Law features:</p> <ul style="list-style-type: none"> <li>- clear guidance and/or standards for specific activities;</li> <li>- the provision of permits to undertake certain activities rather than prohibition;</li> <li>- reasonable and appropriate permit conditions;</li> <li>- reasonable enforcement procedures including warnings, the issuing of infringement notices, impounding items if required and an internal review process for infringement notices and refusal of permits;</li> <li>- and an appropriate level of penalty units to be applied for breaches of the provisions of the law.</li> </ul>
Restriction of competition	<p>National Competition Policy does not automatically demand greater exposure to competition, although it does require an assessment of how government conducts business activities that compete, or potentially compete, in the market.</p> <p>Laws must not restrict competition unless</p>

<b>Risk</b>	<b>Method in which Council plans to manage exposure</b>
	<p>Council can demonstrate:</p> <ul style="list-style-type: none"> <li>- the benefits outweigh the costs</li> <li>- there is no other way of achieving the objective.</li> </ul> <p>The proposed Local Law contains two divisions that may be considered to impose some level of restriction on competition: These being <i>Secondary Activities on Road, Roadside Trading or Trading to a Person on a Road</i> and <i>Alfresco Dining on Roads</i>.</p> <p>In this part 7, the majority of provisions demand that a permit be obtained before certain activities are undertaken (e.g. placing portable advertising signs, using vehicles to advertise, roadside trading or trading to a person on a road) and that certain schedules are followed in regards to these activities. Competition may be restricted due to the increased cost of undertaking these activities and or complying with schedules and guidelines as produced by Council. However, this restriction is justified as they enhance local amenity, reduce disability discrimination, reflect fair market value for use of public assets, and ensure public liability arrangements and responsibilities are clearly defined.</p> <p>Provisions regarding the placement of Real Estate Signage are in place to enhance local amenity and ensure pedestrian and vehicular traffic is not affected.</p> <p>Council considers the potential restrictions on competition to be justified and appropriate, with the benefits outweighing potential costs. Alternative means of achieving the same goals will not be effective or enforceable and therefore these provisions have been included in the proposed Local Law.</p>
Penalties	Schedule 7 of this Local Law sets out penalties for infringement notices which may be issued as an alternative to prosecution in respect of offences against this Local Law where the Council

<b>Risk</b>	<b>Method in which Council plans to manage exposure</b>
	<p>or its Authorised Officers determine to proceed by infringement notice.</p> <p>In general, 2 penalty units apply for most breaches of the provisions in this Local Law. Council feels that a base level of 2 penalty units is sufficient to act as a deterrent for most offences if there is appropriate enforcement vigilance.</p> <p>A penalty of 4 units applies to trading from a roadside without a permit. The penalty units are set at a level higher than the highest payable weekly permit fee to discourage people from attempting to trade and simply accepting a penalty that is less than the permit fee if enforcement activities are undertaken.</p> <p>Penalties for use of toy vehicles and use of shopping trolleys have been maintained at ¼ penalty unit. Riding horses on reservation remains at ½ penalty unit. This level of penalty is in place to reflect the limited severity of these offences.</p> <p>20 penalty units is the maximum penalty that may be applied for all offences if the matter is prosecuted in the Magistrates Court.</p>
Permits	<p>The proposed Local Law retains the requirement for permits to be granted for businesses or residents to undertake various activities and/or hold certain events within the municipality. The permit process aims to achieve the orderly use of Council and community assets, the protection of interests through indemnity and insurance arrangements, fair compensation to Council for use of certain assets, and ensures Council is aware of may prepare for activities that may impact the wider community.</p>
Fees	<p>In accordance with Section 113(2) of the <i>Local Government Act 1989</i>, Council may impose fees and charges applicable to the Local Law.</p> <p>The purpose of fees chargeable under this Local Law will generally be to</p>

<b>Risk</b>	<b>Method in which Council plans to manage exposure</b>
	<p>recover costs or charge a fair market rate for use of community assets, not to make a profit or subsidise other forms of activity.</p> <p>The Local Law allows Council to set fees annually and this will be done as part of the budget process.</p>
Performance standards or prescriptive	The proposed Local Law is prescriptive, meaning that its provisions set out specifications for compliance.
Comparison with neighbouring and like Councils	The provisions within the proposed Local Law have been compared with the Local Laws of Latrobe City Council, East Gippsland, Frankston City Council, Dandenong Council, Melbourne City Council, Borough of Queenscliff, Knox City Council and other Councils. The provisions in these Local Laws have been found to be similar in most cases to the proposed Local Law.
Charter of Human Rights	<p>Council has assessed the proposed Local Law for compatibility with the <i>Charter of Human Rights and Responsibilities</i>. Council is of the opinion that the provisions of the proposed Local Law do not impact on human rights as detailed in the Charter.</p> <p>The Local Law does engage two human rights these being: the right of peaceable assembly (Every person has the right of peaceful assembly.) and Property rights (A person must not be deprived of his or her property other than in accordance with law).</p> <p>In regards to peaceful assembly, permit requirements for street processions, festival or parties on a road, such a permit is required for the protection of amenity and safety through the well-ordered use of a public asset. Requiring a permit is therefore justifiable and while it engages this right, it does not limit it.</p> <p>In regards to property rights, provisions in the Local Law regarding impounding are justifiable as due processes are followed to remedy situations before impounding occurs. Any property</p>

<b>Risk</b>	<b>Method in which Council plans to manage exposure</b>
	impounded will be done so in accordance with the Local Law and therefore the right is engaged but not limited.
Consultation	<p>The following consultation was undertaken during the review of this Local Law:</p> <ul style="list-style-type: none"> <li>- Invitation to public to comment on upcoming review of Local Laws placed on Council's website, Wellington News, and in a media release published in Gippsland Times during January 2011;</li> <li>- The media release was distributed via email to the organizers of the Community Newsletters within the shire;</li> <li>- The review of Local Laws was promoted and discussed as part of the recent Business Roundtables in Maffra, Stratford Rosedale and Heyfield;</li> <li>- Sale Liquor Accord, Victoria Police-Sale and Liquor Licensing Victoria have been involved in the discussion around alfresco dining and consumption of alcohol;</li> <li>- A Local Laws Review Group consisting of three Councillors and Council staff reviewed the law at meetings held during January and February 2011;</li> <li>- Internal departments within Council have been involved where the Local Laws are relevant to their operations;</li> <li>- In accordance with Section 223 of the Local Government Act 1989 public notices inviting submissions on the proposed Local Law will be placed in local newspapers and Victorian Government Gazette;</li> <li>- Wellington Matters will feature an article advising that the Local Laws will be available for public comment.</li> </ul>

<b><i>Risk</i></b>	<b><i>Method in which Council plans to manage exposure</i></b>
Submissions	Submissions in regards to the proposed Local Law No. 2- 2011 were invited in accordance with Section 223 of the <i>Local Government Act 1989</i> .  Council did not receive any submissions.

## PART C - COMMENTS ON SPECIFIC PARTS OR PROVISIONS OF THE PROPOSED LOCAL LAW NO 2 – 2011 STREETS AND ROADS

### 1. Objectives for the Proposed Local Law No 2 – 2011 Streets and Roads

#### *Council objective*

Council's objective in adopting the proposed Local Laws is to achieve higher standards of community safety and amenity.

#### *Where is Council's objective set out?*

Council's objectives are set out in the *Wellington 2030 Strategic Vision* (Wellbeing and Safety and Development Themes) and the *Council Plan 2010-2014* (Development objective).

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 5 – Management of roads for traffic; Division 1: Obstruction of the free passage of people and goods</b>
Description or headings	Trees and plants not to interfere or obstruct.  Placing of signs and posts not to interfere or obstruct.  Discharge of irrigation water.
The problem the provision is intended to address	Items obstructing free passage of people and goods.
Description of the problem	Overhanging vegetation, poorly placed signage and unsafely discharged materials (e.g. irrigation water) prejudice the safe and convenient use of footpaths and roads by impairing clear passage, reducing site lines and causing damage to other structure within the road, footpath or other Council land.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision</i> : Wellbeing and Safety and Development themes.  <i>Council Plan 2010-2014</i> : Development strategic objective
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The proposed Local Law provides specific acceptable standards for the presence of vegetation, signs, posts and irrigation water on roads, footpaths and Council land. The provisions of the law allow for Authorised Officers to assess a situation and issue

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 5 – Management of roads for traffic; Division 1: Obstruction of the free passage of people and goods</b>
	directions to rectify the obstruction in accordance with the standards or for infringements to be issued if rectification works are not undertaken.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 5 – Management of roads for traffic; Division 2: Property Numbers</b>
Description or headings	Property numbers to be displayed
The problem the provision is intended to address	Council or emergency services not being able to identify properties
Description of the problem	The delivery of effective and efficient community and safety/emergency services it is impaired when properties are not identified properly.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i> <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law requires that property numbers are to be displayed and provides requirements on the size, position, materials and state of repair of these numbers.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 5 – Management of roads for traffic; Division 3: Vehicle crossings</b>
Description or headings	Vehicle crossing required  A permit is required for a vehicle crossing  Redundant vehicle crossing
The problem the provision is intended to address	Inappropriate or dangerous access to properties due to crossings not being constructed to appropriate standards.  Ensuring redundant crossings are removed and reinstated to Council's acceptable

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 5 – Management of roads for traffic; Division 3: Vehicle crossings</b>
	standard.
Description of the problem	Vehicle crossings that are not constructed to an appropriate standard present a risk to road users.  Redundant vehicle crossings not removed and reinstated according to Council's standards also present a risk to road users.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development</i> themes  <i>Council Plan 2010-2014: Development</i> strategic objective
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law requires vehicle crossings to be constructed to an appropriate standard and approved through a permit process. It also requires that redundant crossings be removed to an acceptable standard.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on roads; Division 1: Prohibition of vehicles likely to damage the road</b>
Description or headings	Restriction of use  Notice of intention  Submissions  Signposting of restriction  A permit is required to use a road contrary to the sign erected
The problem the provision is intended to address	Damage to a road or part of a road by a particular class of vehicles.
Description of the problem	When a road is determined to be sufficient for carriage of only certain classes of vehicles it is necessary to restrict vehicles from the road that may cause infrastructure damage or present a risk to other road users.
Council objective	To achieve higher standards of community safety and amenity.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on roads; Division 1: Prohibition of vehicles likely to damage the road</b>
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives??	If in the opinion of the Council a road or part of a road is likely to be damaged by a particular class of vehicle the Council may after consultation, subject to this Division, prohibit such vehicles from using that road or part of the road for as long as it considers is necessary to prevent the damage.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on Roads Division; 2: Shopping trolleys</b>
Description or headings	Use of shopping trolleys
The problem the provision is intended to address	Abandoned shopping trolleys on Council/public land.
Description of the problem	Abandoned shopping trolleys are unsightly, are a potential hazard to road and footpath users and can be an environmental hazard when enter drains or waterways.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives??	The Local Law limits use of shopping trolleys to a 200 metre radius from the retailer that provides the trolley. It also makes it an offence to leave shopping trolleys on any road, bicycle path or vacant land except in an area designated for the purpose, or cause or authorise another person to do so.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on Roads; Division 3: Control of toy vehicles</b>
Description or headings	Use of Toy Vehicles

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on Roads; Division 3: Control of toy vehicles</b>
	Conduct when using a toy vehicle
The problem the provision is intended to address	A toy vehicle is defined as a vehicle other than a bicycle, ordinarily used by a child at play and designed to be propelled by human power and includes a child's tricycle, scooter, skateboard, roller skates, roller blades and similar toys.
Description of the problem	Use of these toy vehicles in certain locations leads to hazards to road users, pedestrians and may cause asset damage.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law allows Council to designate areas in which toy vehicles must not be used.  The Local Law also requires that any person who uses a toy vehicle or causes or authorises another person to use a toy vehicle on a road must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the road, whether in or on another vehicle or not.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on Roads; Division 4: Stationary Heavy or Long Vehicles</b>
Description or headings	Permit is required to park a heavy or long vehicle on private property in residential zones
The problem the provision is intended to address	Heavy or long vehicles parked, kept or stored in Residential Zones.
Description of the problem	Depending on the situation/location where a heavy or long vehicles is parked in residential zone there may be an impact on residential amenity, the vehicle may cause hazard to road users when entering/exiting the road and may cause damage to

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on Roads; Division 4: Stationary Heavy or Long Vehicles</b>
	infrastructure.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	A person must not without a permit allow a vehicle allow a heavy or long vehicle to be parked, kept, stored or repaired on any property which is zoned Residential under any planning schemes currently in force within the Wellington Shire. Standard 2 sets out the considerations that will be taken into account when determining if a permit will be granted.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 6 Control of vehicles and horses on roads; Division 5: Horses on reservations</b>
Description or headings	Riding horses on reservations prohibited
The problem the provision is intended to address	Horses being ridden on road reserves in built up areas.
Description of the problem	Horse riding on roads reserves in built up areas presents a high risk to all road users.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives??	The Local Law requires that a person must not ride or lead a horse or cause or authorise another person to ride or lead a horse upon a reservation on a road in a built up area.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 1: Portable advertising signs placed on roads</b>
Description or headings	Permit required for displaying portable advertising signs on roads  Real estate signage  Permit required to use a vehicle to advertise
The problem the provision is intended to address	Unregulated placement of signage and the use of vehicles for advertising.
Description of the problem	Portable advertising signs placed in roads and the use of vehicles for advertising introduces hazards to road users, may reduce local area amenity and presents a public liability risk to Council.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law requires a permit to be applied for and granted before a portable advertising sign may be displayed on a road. The Local Law places conditions on the type, construction and placement of signage and in considering an application Council must take into account:  a) whether an indemnity and evidence of public liability insurance has been provided to the Council; and  b) any Council guidelines and;  c) any other matter relevant to the circumstances of the application.  A permit will not be issued where it is likely to introduce a hazard to road users or pedestrians due to:  a) boards or signs which obstruct a driver's line of sight at a corner or bend or between roads at a junction or at any point of vehicular egress from the

Clause(s), section or Part of the Local Law	<b>Part 7 Secondary activities on roads; Division 1: Portable advertising signs placed on roads</b>
	<p>property;</p> <p>b) boards or signs which obstruct or detract or tend to interfere with a road users view of a traffic sign or signal;</p> <p>c) boards or signs which have insufficient clearance from vehicles on the carriageway or parking areas or from the points of access to premises for pedestrians;</p> <p>d) boards or signs that interfere with free and easy pedestrian movement on footpaths or cause difficulty in opening vehicle doors; or</p> <p>e) any other reason that is judged to be a threat to public safety.</p> <p>Signs will not be permitted on the road pavement or any reservations located on the road pavement.</p> <p>The Local Law requires a permit to be applied for and granted before a vehicle may be used to advertise. In determining whether to grant a permit to allow advertising on vehicles on the road, the Council must take into account:</p> <p>a) the duration and location of any relevant vehicle or vehicles;</p> <p>b) the nature of the advertising material;</p> <p>c) the location in which the vehicle is placed;</p> <p>d) the regularity of such placement;</p> <p>e) whether any vehicle is regularly moved throughout the day;</p> <p>f) whether any vehicle is so parked as to obstruct the view of other road users;</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 1: Portable advertising signs placed on roads</b>
	<p>g) whether the location of the vehicle creates a nuisance to other road users or occupiers of adjacent premises;</p> <p>h) any other matter which appears relevant to determining the purpose for which any such vehicle is left.</p> <p>The Local Law contains prescriptive requirements for the placement of real estate signage.</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 2: Trading from a road to a person on a road</b>
Description or headings	<p>Permit required for roadside trading</p> <p>Permit required for trading to a person on a road</p> <p>Regulation of trading sites</p>
The problem the provision is intended to address	Trading from a road or to person on a road undertaken in an unregulated manner.
Description of the problem	Trading from a road or to person on a road, whether on a temporary or permanent basis, undertaken in an unregulated manner presents a risk to all road users and may reduce amenity of the local area.
Council objective	To achieve higher standards of community safety and amenity.
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p><i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i></p> <p><i>Council Plan 2010-2014: Development strategic objective</i></p>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p>The Local Law requires a permit for roadside trading to be granted before such activity may be undertaken. In determining whether to grant a permit to allow roadside trading or to a person on a road, the Council must take into account</p> <p>a) whether the safety of road users</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 2: Trading from a road to a person on a road</b>
	<p>or the passage of vehicles will be affected by the placement;</p> <p>b) whether permits required by the Public Health and Wellbeing Act 2008 and Food Act 1984 or any other legislation have been obtained;</p> <p>c) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;</p> <p>d) whether the activity will be detrimental to the amenity of the area;</p> <p>e) whether appropriate arrangements can be made for:</p> <ul style="list-style-type: none"> <li>• waste water disposal</li> <li>• litter and garbage</li> <li>• lighting</li> <li>• advertising signs;</li> </ul> <p>f) whether the consent of VicRoads has been obtained where the road is a declared State Highway, Tourist Road or Forest Road;</p> <p>g) whether any indemnity/guarantee in has been provided to the Council; and</p> <p>h) any other matter relevant to the circumstances of the application.</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 3: Display of goods for sale</b>
Description or headings	A permit is required to locate goods for sale
The problem the provision is intended to address	Display or sale of goods on a footpath or other part of a road undertaken in an unregulated manner.
Description of the problem	Display or sale of goods on a footpath or other part of a road may present hazards to pedestrians and road users. In particular, goods must be displayed in such a manner as to not contravene <i>Disability Discrimination Act</i> requirements.
Council objective	To achieve higher standards of community

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 3: Display of goods for sale</b>
	safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p>According to the Local Law, no person will without a permit place or display any goods for sale or cause or permit another person under his or her control to do so on any footpath or other part of a road.</p> <p>In determining whether to grant a permit to allow goods to be displayed for sale on a road, the Council must take into account:</p> <ul style="list-style-type: none"> <li>a) whether the goods will be displayed outside the applicant's premises;</li> <li>b) whether adequate lighting of the display area can be achieved if the normal business hours include hours of darkness;</li> <li>c) whether the goods or the display may be of such material, layout or construction which could be a hazard to pedestrians;</li> <li>d) whether an indemnity and evidence of public liability insurance has been provided to the Council; and</li> <li>e) any other matter relevant to the circumstances of the application.</li> </ul>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 4: Alfresco dining on roads</b>
Description or headings	<p>A permit is required to establish an alfresco dining facility</p> <p>An endorsement to a permit is required to allow the consumption of alcohol in an alfresco dining facility.</p>
The problem the provision is intended to address	Unregulated alfresco dining.
Description of the problem	Alfresco dining on a footpath or other part of a road may present hazards to pedestrians and road users. In particular, alfresco dining

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 4: Alfresco dining on roads</b>
	and facilities must be undertaken in such a manner as to not contravene <i>Disability Discrimination Act</i> requirements. In addition, the consumption of alcohol in alfresco dining areas in an unregulated manner may present a risk to footpath or road users.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development</i> themes  <i>Council Plan 2010-2014: Development</i> strategic objective
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p>The Local Law requires a permit to be applied for and granted before alfresco dining will be allowed on any footpath or part of a road. In considering granting a permit, Council must take into account:</p> <ul style="list-style-type: none"> <li>a) whether the facility is conducted in conjunction with and as an extension of food premises located immediately abutting the facility, and the applicant is the person conducting such food premises;</li> <li>b) whether the food premises are registered in accordance with the <i>Food Act 1984</i>;</li> <li>c) whether a site plan detailing placement of furniture has been provided</li> <li>d) whether the facility would be located where it would obstruct the visibility at an intersection;</li> <li>e) whether appropriate and safe pedestrian access can be maintained;</li> <li>f) whether the tables, chairs and other equipment to be used will be a hazard;</li> <li>g) whether an indemnity and evidence of public liability insurance has been provided to the Council; and</li> <li>h) any other matter relevant to the circumstances of the application.</li> </ul> <p>The following conditions will be applicable to</p>

Clause(s), section or Part of the Local Law	<b>Part 7 Secondary activities on roads; Division 4: Alfresco dining on roads</b>
	<p>all permits:</p> <ul style="list-style-type: none"> <li>a) Tables and chairs to be removed from the footpath area by 11.00 p.m. Barricades or screens to be removed unless permission has been granted for such structures to be permanently fixed.</li> <li>b) The holder of the Council permit must move or remove the outdoor eating facility when requested to by an Authorised Officer or a member of the Police Force or an Emergency Service.</li> </ul> <p>In regards to alcohol consumption, a person must not without an endorsement to an alfresco dining permit allow the consumption of alcohol within an alfresco dining facility on any footpath or other part of a road.</p> <p>In determining whether to endorse an Alfresco dining permit to allow the consumption of alcohol, the Council must take into account:</p> <p>In determining whether to endorse an Alfresco Dining Permit to allow the consumption of alcohol, the Council must take into account:</p> <ul style="list-style-type: none"> <li>a) whether an indemnity and evidence of public liability insurance has been provided to the Council;</li> <li>b) any Council Guidelines and;</li> <li>c) any other matter relevant to the circumstances of the application</li> </ul> <p>The following conditions will be applicable to all Permits:</p> <ul style="list-style-type: none"> <li>a) Permit holders serving alcohol must operate in accordance with the rules and regulations of the Liquor Control Reform Act 1998, and are responsible for the conduct of all persons in the approved area.</li> <li>b) applicants must obtain or have obtained permission from the Director of Liquor Licensing.</li> <li>c) applicants must obtain a planning permit</li> </ul>

Clause(s), section or Part of the Local Law	Part 7 Secondary activities on roads; Division 4: Alfresco dining on roads
	<p>if necessary before serving alcohol in alfresco dining areas. Site plans submitted with permit applications must show the licensed area proposed to be on public space.</p> <p>d) an endorsement will only be granted where the predominant activity is the consumption of a meal and alcohol can only be consumed during the process of ordering or consuming a meal.</p> <p>e) Permit holders serving alcohol must, where appropriate, provide Council approved barricades or screens on at least three sides of the seating area, one side of which will be the kerbside.</p> <p>f) Permit holders serving alcohol must only permit alcohol to be consumed from a proper drinking glass. No cans or bottles are permitted (except bottles containing wine only and jugs of alcoholic drinks).</p> <p>g) Permit holders serving alcohol will be responsible for ensuring patrons consuming alcohol are properly seated on chairs at tables. There will be no standing while drinking in the designated area.</p> <p>h) Alcohol must cease being consumed no later than one hour after the kitchen has finished serving the regular full menu or by 10pm, whichever is earlier.</p>

Clause(s), section or Part of the Local Law	Part 7 Secondary activities on roads; Division 5 Bulk rubbish containers on roads
Description or headings	<p>Permit is required to place a bulk rubbish container on a road</p> <p>Duration</p>
The problem the provision is intended to address	Unregulated bulk rubbish containers on roads.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 5 Bulk rubbish containers on roads</b>
Description of the problem	Bulk rubbish containers placed in an unregulated manner may obstruct the passage of vehicles and pedestrians, obscure the view of motorists or present a physical hazard.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i> <i>Council Plan 2010-2014: Development strategic objective.</i>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 5 Bulk rubbish containers on roads</b>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p>The proposed Local Law requires that a permit must be applied for to place a bulk rubbish container on the road. Approval is subject to the application satisfactory addressing the criteria as set out in the standards.</p> <p>In determining whether to grant a permit for the placement of a bulk rubbish container on a road, the Council must take into account:</p> <ul style="list-style-type: none"> <li>a) whether the placement will obstruct the passage of vehicles and pedestrians, obscure the view of motorists or present a physical hazard;</li> <li>b) whether the placement will contravene any traffic control signs;</li> <li>c) whether there is insufficient room for placement within the private property of the owner</li> <li>d) whether reflectors can be securely attached on the side nearest passing traffic or placed on a carriageway, so as an approaching motorist can identify the extent and form of the container;</li> <li>e) protection of any Council assets;</li> <li>f) whether an indemnity and evidence of public liability insurance has been provided to the Council; and</li> <li>g) any other matter relevant to the circumstances of the application.</li> </ul> <p>Duration has been limited to 6 weeks to prevent long term use of Council amenities to store bins.</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 6 Occupation of the roads for works</b>
Description or headings	<p>A permit is required for occupation of the road for works</p> <p>Reinstatement works</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 6 Occupation of the roads for works</b>
	Works of service authorities
The problem the provision is intended to address	The occupation of roads for works presenting hazards, reduced amenity and public liability issues.
Description of the problem	Occupation of roads for works often introduce hazards to other road users, impact amenity on the adjoining area and present a public liability risk to Council if proper insurance arrangement are not in place.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law requires that a permit be applied for an granted before a person may:  a) occupy or fence off part of a road; b) use a mobile crane or travel tower for any building work; c) make a hole or excavation; or d) reinstate a hole or excavation e) Service authorities are exempt from this permitting requirement. f) In considering the permit application, Council will take into account: g) the likely hazard that the works may constitute to users of the road; h) the impact of the works on the amenity of the adjoining area; i) whether an indemnity and evidence of public liability insurance has been provided to the Council; and  The Local Law requires reinstatement works to be carried out on any road damaged or affected by such works in accordance with permit conditions.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 7 Repair and Deposited Substances</b>
Description or headings	Repair of vehicles is prohibited  Substances from vehicles, animals and livestock  Removal of substances
The problem the provision is intended to address	Deposit of waste and other substance on to the road.
Description of the problem	Vehicle parts, oils, fuels, animal manure and urine create hazards to other road users and reduce amenity in the surrounding area.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law prohibits the repair of vehicles on the roadside that reduces the chance of materials being deposited on the roadside. The Local Law also prohibits the deposit of grease, oil, mud, clay or other substances to fall or run off a vehicle or livestock onto a road or into drains and further requires reasonable steps to be taken by the person in charge of the vehicle or livestock to remove substances should they be deposited.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 8: Street parties, street festivals, processions or events</b>
Description or headings	Permit required for street parties, street festival, procession or events
The problem the provision is intended to address	Street parties, street festivals, processions or events undertaken in an unregulated manner.
Description of the problem	Street parties, street festivals and processions undertaken in an unregulated manner introduce hazards to roads users, restrict the free passage of pedestrians and vehicles and present a high public liability

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 8: Street parties, street festivals, processions or events</b>
	risk.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i>  <i>Council Plan 2010-2014: Development strategic objective</i>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p>The Local Law requires that a permit be applied for and granted before a street parties, street festivals, procession or event may take place.</p> <p>In determining whether to grant a permit for a street party on a local road, the Council must take into account</p> <ul style="list-style-type: none"> <li>a) whether the road can be closed to vehicular traffic for the duration of the street party;</li> <li>b) whether all owners or occupiers of all properties with any vehicular access via the section of road to be closed have been advised by letter and given seven days to comment or object;</li> <li>c) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the road at locations and times specified by the Authorised Officer;</li> <li>d) whether the footpath on at least one side of the road can be kept clear of obstructions; and</li> <li>e) any other matter relevant to the circumstances of the application.</li> </ul> <p>In determining whether to grant a permit for a street party on a collector road, street festival, procession or event the Council must take into account</p> <ul style="list-style-type: none"> <li>a) whether a suitable traffic management plan has been completed by a suitably qualified person confirming that the road can be closed to vehicular traffic,</li> </ul>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 8: Street parties, street festivals, processions or events</b>
	<p>or partly closed with safe and effective separation of vehicular traffic and party/festival/procession/event patrons and equipment;</p> <p>b) whether the agreement of Victoria Police and VicRoads has been obtained and their requirements met, including an appropriate traffic detour signing scheme;</p> <p>c) whether all owners or occupiers of properties with any vehicular access via the section of road to be closed have been advised by letter and given seven days to comment or object; and</p> <p>d) any other matter relevant to the circumstances of the application.</p>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 9: Collection on roads</b>
Description or headings	A permit is required for collection on roads
The problem the provision is intended to address	The solicitation or collection of any waste materials, gifts of money or subscriptions from any footpath or from house to house adjacent to any road
Description of the problem	The solicitation or collection of any waste materials, gifts of money or subscriptions from any footpath or from house to house adjacent to any road may result in hazards being introduced to road and footpath users and may impact local area amenity.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<p><i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i></p> <p><i>Council Plan 2010-2014: Development strategic objective</i></p>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	The Local Law requires that a person must not without a permit solicit or collect any waste materials, gifts of money or subscriptions from any footpath or from house to house adjacent to any road or cause or authorise another person to do so.

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 9: Collection on roads</b>
	<p>In determining whether to grant a permit to allow collections, the Council must take into account</p> <ul style="list-style-type: none"> <li>a) the times and days it is proposed to collect;</li> <li>b) the matter or thing to be collected;</li> <li>c) the roads or areas in which the collections will take place;</li> <li>d) the impact on traffic and safety of pedestrians;</li> <li>e) the age and capacity to supervise participants;</li> <li>f) whether an indemnity and evidence of public liability insurance has been provided to the Council; and</li> <li>g) any other matter relevant to the circumstances of the application.</li> </ul>

<b>Clause(s), section or Part of the Local Law</b>	<b>Part 7 Secondary activities on roads; Division 10: Busking</b>
Description or headings	A permit is required for busking activities
The problem the provision is intended to address	Unregulated busking.
Description of the problem	Busking can add to the vibrancy of municipal places. However, busking may reduce amenity and safety by limiting access to certain municipal places (footpaths in particular) and lead to noise concerns.
Council objective	To achieve higher standards of community safety and amenity.
Where is Council's objective set out?	<p><i>Wellington 2030 Strategic Vision: Wellbeing and Safety and Development themes</i></p> <p><i>Council Plan 2010-2014: Development strategic objective</i></p>
How does the proposed Local Law Provision help achieve community safety and amenity objectives?	<p>To protect community amenity and safety, the Local Law sets required standards for busking and defines whether a permit is required or not for this activity. The aim is to allow for a degree of self-regulation for minor busking activities and for retaining control over longer term or major busking activities.</p> <p>The requirement to obtain a permit for</p>

Clause(s), section or Part of the Local Law	<b>Part 7 Secondary activities on roads; Division 10: Busking</b>
	<p>busking does not apply subject to all of the following conditions being met:</p> <ul style="list-style-type: none"><li>a) Busker has obtained written consent from the proprietors of the business outside which busking is intended;</li><li>b) Busker does not perform in any one location for more than two (2) consecutive days; and</li><li>c) Busker adheres to the conditions as per the standards set out in Local Law No 2 for busking and any guidelines developed from time to time for busking.</li></ul> <p>The following conditions will be applicable to all busking whether a permit is required or not.</p> <ul style="list-style-type: none"><li>a) Not to cause any annoyance or obstruction to persons or traffic</li><li>b) Not to obstruct doorways or other entrances.</li><li>c) Busker has obtained written consent from the proprietors of the business outside which they intend to busk</li><li>d) Buskers must, at all times, leave clear a minimum of 1.5 metres of footpath for use by pedestrians.</li><li>e) Should any proprietor or occupier of any premises within hearing distance of the busker request the busker to move out of hearing distance, the busker shall do so on direction from an Authorised Officer.</li><li>f) No "Busker" shall perform within 20 metres of any school, kindergarten, child-minding centre or hospital unless invited by the facility Manager.</li><li>g) The use of fire, animals, materials, substances or equipment that may pose a threat to public safety is subject to approval.</li></ul>

## **2. PART D – SUBMISSIONS RECEIVED AND RESPONSES**

No submissions received

The proposed Streets and Roads Local Law no 2 – 2011 was adopted at the Ordinary Council meeting of Tuesday 19 July 2011.