

Local Law Review Community Impact Statement with respect to the charter of human rights - Yarra Ranges Council

16. Charter of Human Rights

Yarra Ranges Council, as a public authority under the Charter of Human Rights and Responsibilities Act 2006 ('the Charter'), must ensure that a proposed local law is not incompatible with a human right or, in making a decision, fail to give proper consideration to a relevant human right.

If a provision under the proposed Local Law interferes with or restricts a right, consideration must be given to determine whether the provision is reasonable and justified under the Charter.

Council have assessed the proposed Local Law for compatibility with the Charter and as a result, acknowledges that there is a minimal possibility that some provisions may be considered incompatible. The following sections of the proposed Draft Local Law were raised through community consultation with having the potential conflict with the Charter of Human Rights.

Freedom of Movement

a) Camping on Council Land

Council have identified that in some instances Camping on Council Land may be required. To support this, Council have introduced an exemption clause acknowledging this restriction does not apply to a person who camps in an area due to an elevated risk, threat of bushfire or severe weather event.

Property Rights

a) Camping and Caravans on Private Property

Upon assessment and in support of feedback received from the community, Council is removing the need for a permit to temporarily sleep in a caravan or camp on private property. Instead Council have introduced "nuisance" provisions to allow enforcement of any nuisances that may arise.

b) Council's ability to seize or impound items

Enforcement of the proposed Draft Local Law has been designed around an educative approach. Unless a matter is urgent or could compromise public safety, Authorised Officers provide ample opportunities to a person to remedy a breach of the Local Law.

The proposed Draft Local Law limits any impacts under the Charter through a person's right to have an enforcement penalty referred to the Magistrates Court for decision.

In conclusion, Council found that the few provisions that may be considered incompatible with the Charter were justified by the need to maintain safety for the whole community.