



# **Community Amenity Local Law 2023**

**VERSION FOUR – DATED 27 JULY 2023**

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## **PART I – INTRODUCTION**

### **1.1 Objectives**

The objectives of this Local Law are to:

- (a) provide for the peace, order and good government of the municipal district of Moira Shire Council;
- (b) provide for those matters which require regulation under the Local Law;
- (c) provide for the administration of Council powers and functions, including the prohibition or regulation of activities so that no detriment is caused to the amenity of the neighbourhood;
- (d) provide for the care, protection and management of Council land, including reserves, and to protect the safety and amenity of persons attending those places;
- (e) regulate and control the consumption and possession of liquor;
- (f) protect Council assets;
- (g) regulate the droving, grazing and movement of livestock throughout the municipal district, minimising the damage to road surfaces, formations, drainage, native vegetation and surrounding areas arising from livestock and to alert other road users to the presence of livestock on roads in the interests of road safety; and
- (h) enhance public safety and community amenity.

### **1.2 Power to make this Local Law**

This Local Law is made pursuant to section 71 of the Act and section 42 of the *Domestic Animals Act 1994*.

### **1.3 Commencement and Revocation**

- (a) This Local Law shall come into operation on [insertdate2023], and unless earlier revoked, will cease to operate 10 years after the date on which it commenced.
- (b) On the commencement date of this Local Law, Council's *Community Safety and Environment Local Law No. 1 of 2013* is revoked, save that any notice or approval given, permit issued or matter or thing commenced under the repealed Local Law, is not affected.

### **1.4 Application**

- (a) This Local Law shall apply to and have operation throughout the municipal district of Moira Shire Council, and anything allowed under any Act, Regulation or the Planning Scheme, is not affected by any prohibition, requirement or restriction under this Local Law.
- (b) Wherever in this local law any reference is made to legislation or subordinate legislation, it includes any subsequent equivalent consolidation, re-enactment or substitute legislation or subordinate legislation.
- (c) In exercising its powers and functions under this Local Law, Council may have regard to any guidelines, policies, codes, standards or other documents incorporated by reference into this Local Law or adopted for the purpose of the Local Law.

## 1.5 Consistency

The provisions of this Local Law shall not derogate from or otherwise prejudice or limit the operation of any other Local Laws of Council and shall be read in addition to the provisions of such other Local Laws as may be necessary.

## 1.6 Definitions

In this Local Law, words which are not defined will adopt their ordinary meaning, and unless the contrary intention appears in this Local Law, the following words are defined to mean:

<b>Act</b>	means the <i>Local Government Act 2020</i> ;
<b>applicant</b>	means a person who applies for a permit under this Local Law;
<b>appointed agent</b>	in respect of any land, means the person authorised in writing by an owner or occupier of that land to make an application, appeal, referral or representation on behalf of the owner or occupier;
<b>authorised officer</b>	means an authorised officer appointed under section 224 of the <i>Local Government Act 1989</i> ;
<b>barbeque</b>	means a structure device or contraption (not enclosed in a building) which is used or intended, adopted or designed to be used for the cooking of food;
<b>builder</b>	means a person or company to whom a building permit has been issued under the <i>Building Act 1993</i> or where the relevant building permit has been issued to another person, , , means the person or company in charge of or directing the carrying out of building work on any land;
<b>builder's refuse</b>	includes any solid or liquid, domestic or commercial waste, debris or other waste and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work;
<b>building</b>	has the same meaning as in the <i>Building Act 1993</i> ;
<b>building site</b>	means land on which building works are being (or have been) undertaken;
<b>building work</b>	has the same meaning as the <i>Building Act 1993</i> ;
<b>bulk refuse container</b>	means a lidded refuse container having a greater capacity than one cubic metre used for the containment of waste materials of any kind;

<b>camp</b>	means to sleep in or occupy a caravan, tent annexe, sleeping bag, vehicle or other temporary structure (including a prefabricated holiday unit),
<b>camping area</b>	means land which is provided as a camping area by Council or a public statutory body, or registered with Council as prescribed accommodation as defined by regulation 6 of the <i>Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020</i> or registered as a caravan park with Council under the <i>Residential Tenancies (Caravan Parks and Moveable Dwellings Registration and Standards) Regulations 2020</i> ;
<b>caravan</b>	includes any caravan whether or not any of the wheels or axles have been removed or the body of the vehicle or structure is resting directly on the ground or other supports and includes any attached structures;
<b>carriageway</b>	means a portion of road improved, designed or ordinarily used for vehicular traffic and includes any shoulders and areas both at the sides or centre of the carriageway used for standing or parking of vehicles, and if a road has two or more portions divided by a reservation, means each portion including any centre median strip;
<b>cat</b>	means a cat over three months of age;
<b>Chief Executive Officer</b>	means the Chief Executive Officer of Council;
<b>commercial area</b>	means all land zoned Commercial or Industrial under the Planning Scheme;
<b>Council</b>	means Moira Shire Council;
<b>Council assets</b>	includes any building, structure, fixture, road, road infrastructure, channel, drain, vehicle crossing or infrastructure or other physical asset owned, leased, managed or controlled by Council and includes any assets listed in clause 3.6;
<b>Council land</b>	means any land either owned or occupied by, vested in or under the control, care or management of Council including roads, streets, parks, gardens, reserves, lakes, watercourses, and reservations, and includes any buildings or structures on that land;
<b>corporation</b>	includes any body corporate, whether formed or incorporated within or outside the State of Victoria and any incorporated association within the meaning of the <i>Associations Incorporation Reform Act 2012</i> ;
<b>daylight hours</b>	means the hours between sunrise and sunset;

<b>discharge</b> or diversion of any water;	in relation to water includes the release, pumping, siphoning
<b>dog</b>	means a dog over three months of age;
<b>domestic animal</b>	means a cat or a dog as defined in this Local Law;
<b>domestic waste</b>	means any waste material generated in any dwelling or on land on which a dwelling is located, whether within or outside the municipal district of Council;
<b>drover</b>	means the person responsible for the droving of livestock and includes the owner of those livestock or an employee or contractor of that person engaged for the purpose of supervising the droving of those livestock or taking them from or to a market;
<b>droving of livestock</b>	means an individual driving of livestock from one location to another for the purpose of changing their grazing area or moving livestock from their grazing areas to a location for the purpose of sale or from a sale location to a grazing area but does not include movement of livestock. It includes mere driving of livestock in or through the municipal district for the purpose of supplementing their feeding or taking them from or to a market;
<b>dwelling</b>	includes a house, flat, apartment, a tent, caravan, sleepout, bungalow, movable dwelling or other place of abode whether temporary or permanent;
<b>goods</b>	means an item offered for sale and includes a motor vehicle, motor cycle, caravan, trailer, boat or similar item;
<b>grazing</b>	means livestock being in an area for the purpose of feeding off roadside vegetation;
<b>grazing of livestock</b>	means causing livestock to enter and remain on a road for the purpose of grazing rather than for the purpose of droving or movement of livestock. It relates to grazing a particular or designated area and not to indiscriminate droving for the purpose of or including supplementary feeding;
<b>irrigation water</b>	means any water to be used, or which has been used, by the owner or occupier of any land for the purpose of irrigating such land and whether or not it has been mixed with other water;
<b>land</b>	has the same meaning as used in section 38 of the <i>Interpretation of Legislation Act 1984</i> , and excludes Council land;
<b>liquor</b>	has the same meaning as in section 3 of the <i>Liquor Control Reform Act 1998</i> ;
<b>livestock</b>	has the same meaning as in section 3 of the <i>Impounding of</i>



*Livestock Act 1994;*

<b>mobile waste bin</b>	means a mobile waste bin supplied to a property by, or on behalf of, Council for the purpose of disposing of waste material nominated by Council;
<b>movement of livestock</b>	means individual or regular movement of livestock as part of normal farm management operations, but not for purposes of grazing, from one property to another property within the municipal district, or from or to a property in an adjacent municipal district, at the rate of not less than 1 kilometre per hour in the direction of movement between the two properties, and the movement is completed on the day of commencement;
<b>municipal district</b>	means the municipal district of Council;
<b>notice</b>	means a notice issued by an authorised officer;
<b>notice to comply</b>	means a notice in writing issued by an authorised officer directing compliance with any provision of this Local Law;
<b>offensive</b>	has the same meaning as in section 58(4) of the <i>Public Health and Wellbeing Act 2008</i> ;
<b>order or direction</b>	means an order or direction issued by an authorised officer;
<b>owner</b>	in respect of a cat or a dog, includes the parent or guardian of a minor, or when used in respect of a vehicle, has the same meaning as in section 3 of the <i>Road Safety Act 1986</i> as amended from time to time, or when used in respect of buildings means the owner of the land on which the building is situated;
<b>penalty unit</b>	means a penalty unit as defined in the <i>Sentencing Act 1991</i> ;
<b>permit</b>	means a written permit issued by Council or an authorised officer under this Local Law;
<b>permit holder</b>	is the person to whom a permit has been issued under this Local Law;
<b>person</b>	includes a natural person and a body corporate;
<b>person undertaking building work</b>	means the person on the building site who is undertaking the building work, including trades people and owner builders;

<b>planning scheme</b>	means the Moira Planning Scheme;
<b>portable toilet</b>	includes a portable water closet or portable bio toilet;
<b>poultry</b>	means any fowl, turkey, goose, duck, or similar feathered bird, but does not include a pigeon;
<b>poultry house</b>	means a structure used or intended to be used for the purpose of confining, protecting or sheltering any poultry;
<b>property</b>	means land that is owned by a person (including an owners corporation) and includes all improvements on that land;
<b>public highway</b>	has the meaning ascribed to it in section 3 (1) of the <i>Local Government Act 1989</i> ;
<b>public place</b>	has the same meaning as in section 3 of the <i>Summary Offences Act 1966</i> ;
<b>recreation vehicle</b>	means a vehicle propelled by internal combustion, steam, gas, oil, electricity or any other power but does not include motorised vehicles while they are being used for farming purposes in a rural area;
<b>refuse container</b>	means a lidded container for the temporary containment of refuse or waste and includes a bulk refuse container;
<b>reserve</b>	means any land in the municipal district, excluding a road, that is: <ul style="list-style-type: none"> <li>(a) owned, occupied, managed or controlled by Council or a Community Asset Committee of Council; and</li> <li>(b) is dedicated or used for cultural, recreational, entertainment or sporting purposes and includes an area or facility designated by a sign as a reserve or park ; and</li> <li>(c) includes any structure, fixture, fitting and garden located on or at the land.</li> </ul>
<b>residential area</b>	means all land zoned as a Residential Zone under the Planning Scheme;
<b>road</b>	has the meaning ascribed to it in section 3 of the <i>Local Government Act 1989</i> and includes a public highway;
<b>road infrastructure</b>	has the meaning as in section 3 of the <i>Road Management Act 2004</i> ;
<b>Roads Corporation</b>	means the Roads Corporation established under the <i>Transport Integration Act 2010</i> ;
<b>rural area</b>	means land zoned as a Farming Zone under the Planning Scheme;

<b>schedule</b>	means a schedule to this Local Law;
<b>sealed container</b>	means a container sealed at the point of manufacture;
<b>shopping trolley</b>	means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods;
<b>sign</b>	means any sign, signal, light, marking or other device placed or erected by the authority of Council for the purpose of regulating, prohibiting, warning or guiding persons whether with or without vehicles;
<b>song bird</b>	includes any canary, budgerigar, finch or similar sized bird including a parrot or cockatoo, but not poultry;
<b>stormwater</b>	means rainwater which is discharged from land, roads or buildings to a drain;
<b>stormwater system</b>	means a system which provides for the convenience of stormwater runoff including kerbs and channels, open channels, underground pipe systems and natural waterways;
<b>structure</b>	when used in the context of housing animals, birds, or poultry includes structures of such size that a building permit is required or of such nature that in the opinion of an authorised officer a nuisance may be caused to residents of adjacent property;
<b>temporary vehicle crossing</b>	means a constructed form of wooden panels or other Council approved structure over a bed of sand that extends from the boundary of land over any Council asset, such as a road, a footpath, nature strip, kerb and channel;
<b>trade waste</b>	has the same meaning as in section 3 of the <i>Water Act 1989</i> ;
<b>vacant private land</b>	means privately owned land on which no dwelling is erected;
<b>vehicle</b>	has the same meaning as in section 3 of the <i>Road Safety Act 1986</i> ;
<b>vehicle crossing</b>	means a Council approved properly constructed surface for vehicular access to land or a building site;
<b>wheeled recreation device</b>	means a bicycle, tricycle, skateboard, roller skates, roller blades or other device of similar description. The term does not include a wheelchair when such is being used by a person in bona fide need; and
<b>waste</b>	has the same meaning as in section 4 of the <i>Environment Protection Act 2017</i> and includes waste material referred to as refuse.

## **PART 2 – AMENITY, HEALTH & SAFETY OF THE MUNICIPAL DISTRICT**

### **2.1 Dangerous land**

An owner or occupier of property, must not allow that property to be kept in a manner that is, in the opinion of an authorised officer, dangerous or likely to cause danger to life or property including property that is:

- (a) a haven for vermin, insects or excessive vegetation; or
- (b) used for the storage of any goods and/or substances which are dangerous or are likely to cause danger to life or property.

### **2.2 Unsightly land**

An owner or occupier of property must not allow that property to be kept in a manner which is, in the opinion of an authorised officer, unsightly or detrimental to the general amenity of the neighbourhood, including property, which:

- (a) harbours unconstrained rubbish;
- (b) contains disused excavation or waste material; or
- (c) contains long or excessive vegetation including weeds, grass, undergrowth or any other vegetation.

### **2.3 Storage of machinery or second-hand goods**

- (a) A person who owns or occupies property in a residential area, must not, without a permit, use that property for the storage of old or second-hand motor vehicles or machinery or old or second-hand materials or for the dismantling or breaking up of motor vehicles or machinery.
- (b) A person who owns or occupies property in a residential area, must not, without a permit, use that property for the repair, servicing, panel beating or spray painting of any vehicle other than a vehicle which is registered at that address.

### **2.4 Disused compartments**

A person must not place, leave or allow to remain on any property or road, a disused refrigerator, ice-chest, ice-box, trunk, chest, or any other similar item without first:

- (a) removing every door and lid; or
- (b) rendering every door and lid incapable of being fastened.

## 2.5 Fires in open air

- (a) A person must not, without a permit, on property in a residential area or in a commercial area, light or allow to be lit or to remain alight any fire, except:
- (i) a fire in a barbeque while being used for the purpose of cooking food;
  - (ii) a fire in a chimney, potbelly stove, or a small open fire in a suitable container used for heating, cooking, cultural or social purposes, which in the opinion of an authorised officer, is not offensive;
  - (iii) a fire generated by a tool of trade while being used for the purpose for which it was designed;
  - (iv) a fire contained within a properly constructed fireplace within a dwelling for the purpose of heating; or
  - (v) a fire lit by a member of the Country Fire Authority in the course of their duty or a member of the public who holds a permit under the provisions of the *Country Fire Authority Act 1958*.
- (b) A person must not light or allow to be lit or remain alight a campfire or barbeque using solid fuel on Council land or in a public place, unless:
- (i) the fire is contained in an approved fireplace or trench of at least 30 centimetres deep;
  - (ii) the ground and airspace within a distance of 3 metres from the outer perimeter and uppermost point of the fire are clear of all potentially flammable material;
  - (iii) the fire does not occupy an area exceeding 1 square metre; and
  - (iv) the dimensions of any solid fuel used are the minimum necessary for the purpose.

**Note:** *In addition to any requirement in this Local Law, a person must comply with any restriction, order or direction imposed by the Country Fire Authority.*

## 2.6 Burning of offensive materials

A person must not burn or cause to burn any offensive materials including any substance which contains:

- (a) manufactured chemicals;
- (b) rubber or plastic;
- (c) petroleum or oil (except in an internal combustion engine in a vehicle);
- (d) paint or a receptacle which contains or contained paint; or
- (e) food waste.

## 2.7 Vegetation

An owner or occupier of property must not allow any vegetation on that property to:

- (a) encroach upon any road at a height of less than 3.5 metres; or
- (b) grow in such a manner that it constitutes a danger to road users by preventing a clear view of the road, other road users or signs or signals installed to control, direct, guide, regulate or warn road users.

## 2.8 Pest control

An owner or occupier of property must take all reasonable action to eradicate vermin, pests or insects from that property if in the opinion of the authorised officer such vermin, pests or insects are a nuisance or are a danger or detrimental to the amenity of the neighbourhood.

## 2.9 Bees, wasps and fruit flies

- (a) A person must not, without a permit, keep or allow to be kept any bees on property in a residential area, commercial area or on Council land.
- (b) To assist in the prevention of fruit fly infestation, an owner and occupier of property in a residential area must:
  - (i) prevent fruit that is a host species for fruit flies, from remaining on the ground of the property;
  - (ii) when disposing of such fruit, seal the fruit in a plastic bag and place it in a rubbish bin; and
  - (iii) prune and maintain any fruit trees on the property.

## 2.10 Spruiking, Entertaining and Public Performances

A person must not, without a permit on any road or Council land:

- (a) sound or play any musical or noise instrument;
- (b) sound, play, control, operate or use any loudspeaker, amplifier, microphone, or any other like device unless the sound emitted from that device is otherwise inaudible to other people; or
- (c) allow any loud music or loud noise to be emitted from any music device, including any warning device, in or outside a moving or stationary motor vehicle in that person's possession and/or control, including any motor vehicle parked without a driver or registered operator present.

## 2.11 Wheeled Recreation Devices

- (a) A person must not use or ride any wheeled recreation device on any pathway or Council land which has been designated by Council signage to be a pathway or land on which such activities are prohibited.
- (b) An authorised officer may impound a wheeled recreational device if any person using a wheeled recreational device contrary to sub-clause 2.11 (a) fails to cease the practice when directed to do so by an authorised officer.

## 2.12 Conduct in public places

A person must not, whether by language, action, or otherwise, behave in a public place or on Council land in such a manner as to:

- (a) interfere with another person's reasonable use and enjoyment; or
- (b) endanger, or be likely to endanger, health, life or property.

## 2.13 Recreation vehicles

- (a) A person must not, without a permit, on Council land or in a public place (excluding roads) use a motor powered or motor assisted recreation vehicle including a recreational motor cycle unless such land or public place has been designated by Council for such use.
- (b) A person must not without a permit, use or allow the use of a recreation vehicle on any private land within a residential area or commercial area.
- (c) Where a recreation vehicle is being used by a minor under the age of 18 years, the parent, guardian or person in charge of that minor must apply for and obtain a permit on their behalf.

## 2.14 Horses in public places

A person must not, without a permit, on Council land or in a public place, ride or lead a horse or cause or authorise another person to ride or lead a horse on that land unless signposted by Council as being available for horses or horse riding.

## 2.15 Camping

- (a) A person must not, without a permit, camp on Council land, in a public place, or on privately owned vacant land within the municipal district, unless within a designated camping area.
- (b) In determining whether to grant a permit under sub-clause 2.15(a) Council or an authorised officer must take into account:
  - (i) the location of the land;
  - (ii) the zoning of the land;
  - (iii) the suitability of the land for camping;
  - (iv) the number of tents or other structures to be located on the land
  - (v) the length of time the tents and other structures will be erected on the land;
  - (vi) the availability of sanitary facilities on the land;
  - (vii) the ability of the land to accept waste discharge, disposal and/or sullage;
  - (viii) the likely damage to be caused;
  - (ix) the existence of Insurance and Indemnity; and
  - (x) any other matter relevant to the circumstances associated with the application.

- (c) A person who camps or who occupies a campsite on Council land or in a public place must at all times maintain the campsite in a clean and tidy condition.
- (d) A person is exempt from the requirement to obtain a permit under sub-clause 2.15(a) if, in relation to privately owned land camping is in connection with the seasonal employment of that person on a property on which an agricultural business is being conducted and the person has the permission of the owner to camp on that land.

## **2.16 Dilapidated premises**

- (a) An owner or occupier of land on which there is a building must not allow that building to become dilapidated.
- (b) Without limiting sub-clause 2.16(a), a building is dilapidated if its condition does not conform to the requirements of the *Building Act 1993* and any Regulations made under that Act.

DRAFT



## PART 3 – COUNCIL LAND

### 3.1 Bulk refuse containers and clothing bins

- (a) A person must not, without a permit, place or allow to be left a bulk refuse container or clothing bin on Council land.
- (b) In determining whether to grant a permit under sub-clause 3.1(a), Council or an authorised officer must take into account:
  - (i) whether the placement will obstruct the passage of vehicles and pedestrians, obscure the view of motorists or road users or present a physical hazard to any person or thing;
  - (ii) whether the placement will contravene any traffic control signs;
  - (iii) whether the assets of any public utility will be affected;
  - (iv) the protection of any Council assets;
  - (v) whether persons who may be liable for injury caused by the placing of the container or bin are insured against the risk of injury;
  - (vi) whether the applicant has provided written indemnification to Council against liability arising from activities authorised by the permit; and
  - (vii) any other matter relevant to the circumstances of the application.

### 3.2 Load limits on Roads

- (a) A person must not, without a permit, drive a vehicle on a road when the vehicle is over the prescribed weight determined by Council and indicated on a sign pertaining to that road.
- (b) In deciding whether to issue a permit under sub-clause 3.2(a), Council or an authorised officer must take into account:
  - (i) the amount of the damage likely to be caused to the road by the vehicle;
  - (ii) the type and weight of the vehicle;
  - (iii) the goods to be transported and the weight of those goods;
  - (iv) alternative roads that are available;
  - (v) the necessity to impose speed limits; and
  - (vi) any other matter relevant to the circumstances of the application.

### 3.3 Works on and use of Council Land

- (a) A person must not, without a permit, on Council land:
  - (i) erect or construct any building;
  - (ii) undertake any building work;
  - (iii) deposit any waste or place any obstacle;
  - (iv) exclusively occupy or fence off any part of that land;
  - (v) plant vegetation (except for lawn on a naturestrip);
  - (vi) allow mud, clay, debris or material to be deposited;
  - (vii) damage, obstruct or interfere with anything
  - (viii) remove forest produce or firewood;

- (x) park a vehicle in an area which is exclusively a playground; or
  - (xi) act contrary to any provision, requirement or condition of use prescribed on a sign erected by Council.
- (b) Sub-clause 3.3(a) does not apply to the placement of receptacles for household waste or recyclable material collection provided they are removed before 12 noon the day following collection, or receptacles for other waste for which arrangements have been made with Council for collection.
- (c) In deciding whether to issue a permit under sub-clause 3.3(a), Council or an authorised officer must take into account the same factors listed in clause 3.1(b)(i) to (vii).
- (d) A person must not, on Council land:
- (i) interfere with another person's reasonable use and enjoyment of that public place;
  - (ii) endanger or behave in a way likely to endanger health, life or property; or
  - (iii) enter onto any area, road or track upon which entry is prohibited.

### **3.4 Accessing Council Land**

- (a) A person must not, without a permit, drive a vehicle on Council land other than on that part of a road or vehicle crossing or temporary vehicle crossing formed or constructed for motor vehicles.
- (b) Without limiting sub-clause 3.4(a) where land adjoins or is adjacent or nearby to Council land a person must not, except with a permit, use that land for vehicular access other than by use of the carriageway of a road formed or constructed for motor vehicles.
- (c) Sub-clause 3.4(a) does not apply to essential services vehicles and vehicles owned or operated on behalf of Council or an other public body, for the purpose of undertaking authorised work.
- (d) In deciding whether to issue a permit under sub-clause 3.4(a), Council or an authorised officer must take into consideration:
- (i) public safety factors;
  - (ii) whether alternative vehicle access is available;
  - (iii) the duration required for the vehicle access;
  - (iv) the protection of council assets;
  - (v) whether the assets of any public utilities are likely to be affected;
  - (vi) whether persons who may be liable for injury caused by the vehicle access are insured against that risk of injury;
  - (vii) whether the applicant has provided written indemnification to Council against liability arising from the access authorised by any permit;

- (viii) the protection of vegetation and the environment, and
- (ix) any other matter relevant to the circumstances of the application.

### **3.5 Storage of private property on roads**

- (a) A person must not, without a permit, store any goods, chattels, plant, equipment, wood or vehicles on any part of a road or Council land.
- (b) Where any goods or chattels, including any plant, equipment, wood or vehicle are placed on any part of a road or Council land without a permit, or in contravention of any permit condition, such goods or chattels may be removed and impounded by Council and the cost of removal, storage or disposal shall be paid to Council by any owner of any such item.

### **3.6 Damage to Council assets**

A person must not deface, damage, remove or interfere with any Council assets, including, but not limited to;

- (a) trees, shrubs or other vegetation;
- (b) waste and recycling receptacles;
- (c) signs and their supporting structures;
- (d) drains and culverts;
- (e) road infrastructure;
- (f) parking meters or similar devices;
- (g) fences and gates;
- (h) buildings;
- (i) monuments;
- (j) garden beds;
- (k) water or power supply systems;
- (l) security devices;
- (m) footpaths, kerbing and channels;
- (n) water features;
- (o) public art or art works on public display; or
- (p) Council property not belonging to any defined class.

### 3.7 Use of Reserves

A person must not, in a reserve:

- (a) act contrary to the instruction indicated on any sign,
- (b) bring any animal, other than a dog, into or allow an animal under that person's control to remain in the reserve during an organised event or other activity being conducted pursuant to a permit;
- (c) drive, park or leave standing any vehicle:
  - (i) on any footpath; or
  - (ii) on any road, access way or parking area contrary to any sign erected by Council;
- (d) erect any building, tent or any other structure or occupy or use any building, tent or other structure or camp within a reserve;
- (e) move or interfere with any sign, notice board, equipment, seat, table, gate, post, fence, facility, building or structure;
- (f) engage in any game or sport likely to cause an interference;
- (g) climb upon any portion of any building, improvement, embellishments, tree, hedge, pole post, mast or other structure;
- (h) interfere with or interrupt any authorised entertainment or activity;
- (i) take, cut, damage, displace, deface or interfere with any timber, tree, shrub, plant, wildflower or other vegetation;
- (j) light or maintain a fire other than in a properly constructed fireplace provided by Council; or
- (k) leave any fire unextinguished.

### 3.8 Restriction on entry into Reserves

The Council or an authorised officer may prohibit or restrict a person from entering, accessing or using a reserve if the person:

- (a) is in possession of alcohol outside of the hours permitting under the Local Law;
- (b) is in possession of glass bottles, glass containers or glass utensils; or
- (c) poses a risk to public safety.

## **PART 4 – ROADS AND FOOTPATHS**

### **4.1 Servicing of vehicles on roads**

- (a) A person must not, on a road or Council land, repair or dismantle any vehicle except to enable the immediate removal or mobilisation of a vehicle which has broken down.
- (b) A person must not cleanse or wash down any motor or vehicle on a road or Council land.

### **4.2 Trading of goods or services**

- (a) A person must not, without a permit, on a road or on Council land:
  - (i) erect or place a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services; or
  - (ii) sell or offer to sell goods or services.
- (b) Before commencing trading activities, an itinerant trader must obtain a permit under this Local Law and act in compliance with Council's Footpath Trading Guidelines which are referenced as a permit condition.

### **4.3 Display of goods and other structures**

- (a) A person must not, without a permit, place or cause to be placed any structure, sign, table, chair or goods for display on a road or on Council land.
- (b) If a structure, sign, table, chair or goods for display are placed on a road or Council land contrary to sub-clause 4.3(a), or in contravention of any permit conditions, an authorised officer may remove and impound such item or items if a warning has previously been given to a person who apparently owns or who has placed that item for display on the road or Council land.

### **4.4 Street appeals**

A person must not, without a permit, solicit or collect on a road or Council land, or from house to house, any gifts of money, materials or subscriptions for any purpose.

### **4.5 Distribution of handbills**

A person must not, without a permit, give out or distribute to by-standers or passers by on a road or Council land, any handbills, placards, notices, advertisements, books, papers or pamphlets, except where such information is being distributed at a designated polling venue as managed by the relevant electoral commission.

### **4.6 Processions and demonstrations**

- (a) A person must not, without obtaining a Temporary Road Closure Permit

from Council, facilitate a procession or parade of persons or vehicles, including the use of a public address system on a road.

- (b) A permit for a procession or parade (including a demonstration involving a procession or parade) will provide for the specific route to be taken.
- (c) The applicant for the permit must provide all particulars of the permit to the local emergency services.

*NOTE: A procession of persons or vehicles coordinated for the purposes of a funeral is exempt from the requirement for a permit.*

#### **4.7 Shopping trolleys**

- (a) A person must not leave a shopping trolley on a road or on Council land, other than in any place or area designated for collection.
- (b) Any shopping trolley left on a road or Council land other than in a place that is an area designated for that collection may be removed by an authorised officer and impounded

#### **4.8 Discharge of water**

A person must not, without a permit, cause or allow:

- (a) the direct or indirect flow of any irrigation water onto a road or Council land;
- (b) the discharge of water onto a road or Council land, with the exception of stormwater which drains to a legal discharge point provided by Council; or
- (c) the discharge of water on to any land, including any land owned or occupied by that person, which enables such water to discharge onto a road or Council land.

## **PART 5 – BUILDING SITES**

### **5.1 Stormwater protection**

Where any building work is being carried out on land, the owner, builder or appointed agent must ensure that the building site is developed and managed to prevent:

- (a) stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants;
- (b) any mud, dirt, sand, soil or stones being washed into the stormwater system; and
- (c) building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the stormwater system -

to the satisfaction of an authorised officer.

### **5.2 Building work**

- (a) The owner, builder, appointed agent, person undertaking building work or the operator of any vehicle associated with the building work must not allow mud, clay, debris or material to be deposited on any part of a road, Council land or in any public place.
- (b) The owner, builder, appointed agent or person undertaking building work on a building site, regardless of whether a building permit has been issued, must:
  - (i) notify Council in writing at least 7 days before the commencement of the building work, including the delivery of any equipment or materials, and of any existing damage to adjacent Council assets;
  - (ii) not cause any damage to Council assets or other infrastructure, noting that if such damage is identified a Notice to Comply will be issued under this Local Law requiring necessary repair or reinstatement works to be conducted at that persons cost; and
  - (iii) ensure that entry to the building site takes place via a temporary vehicle crossing unless there is no constructed kerb and channel at any such entry point.

### **5.3 Sanitary Facilities**

- (a) The owner, builder, appointed agent or person undertaking building work on land must not undertake building work on a building site unless the building site is provided with a sewerated toilet or a portable toilet, to the satisfaction of an authorised officer.
- (b) The owner, builder, appointed agent or person undertaking building work must remove any portable toilet on the building site on the completion of the building work.

- (c) The owner, builder, appointed agent or person undertaking building work must maintain and regularly clean any portable toilet on the building site to the satisfaction of an authorised officer.
- (d) The owner, builder, appointed agent or person undertaking building work must not discharge any sewage, effluent or other waste onto the building site and must dispose of all such waste at a site fully accredited and approved for such waste.

#### **5.4 Containment of waste**

- (a) Where any building work is being carried out on land the owner, builder, appointed agent or person undertaking building work must:
  - (i) only undertake building work if a refuse container is provided for the purpose of disposal of builder's refuse, and, provided the refuse container contains all builder's refuse on the building site to the satisfaction of an authorised officer, noting that its size, design and construction will be at the discretion of the owner, builder, appointed agent or person undertaking the building work;
  - (ii) place the refuse container on the building site and keep it in place (except for such periods as are necessary to empty the refuse container) for the duration of the building work;
  - (iii) not place a bulk refuse container on any road, Council land or public place without a permit issued in accordance with sub-clause 3.1;
  - (iv) ensure that all builder's refuse which requires containment is placed in a refuse container;
  - (v) ensure that builder's refuse is not deposited in or on any land other than in accordance with this clause;
  - (vi) ensure that builder's waste is not deposited in or over any part of the stormwater system;
  - (vii) manage the placement and operation of the refuse container to the satisfaction of an authorised officer;
  - (viii) ensure that all windblown waste is placed in a refuse container; and
  - (ix) provide for the separation of waste as may be required from time to time by Council or the Environment Protection Authority for the purposes of recycling.
- (b) The requirement to provide a refuse container referred to in sub-clause 5.4(a) may be waived at Council's or an authorised officer's discretion.



## 5.5 Disposal of waste

- (a) Where any building work is being carried out on land the owner, builder, appointed agent or person undertaking building work must:
  - (i) empty the refuse container referred to in clause 5.4(a) whenever full, dispose of the contents at an approved disposal site and, if necessary, provide a replacement refuse container as part of the emptying process; and
  - (ii) remove and lawfully dispose of all builder's refuse within 7 days of completion of the building work or issue of an occupancy permit, whichever occurs last.
  
- (b) The driver of any vehicle involved in placing or removing a refuse container referred to in sub-clause 5.4(a) must access the building site by way of a temporary vehicle crossing, or where otherwise permitted by an authorised officer in accordance with that permission, or as otherwise provided in sub-clause 5.2(b)(iii).

## 5.6 Inspections

- (a) An authorised officer may enter into or upon any building site at any reasonable time for the purpose of undertaking an inspection of the building site including any portable toilet, plant or any other things placed on the land.
  
- (b) If an authorised officer identifies any damage that appears to result from non-compliance with this Local Law, the authorised officer may direct the owner, builder, appointed agent or person undertaking building works to reinstate the damage within a specified time and to a specified standard. The authorised officer will provide the owner, builder, appointed agent or person undertaking building works with a notice to comply, either at the time of the inspection or within a reasonable timeframe.

## PART 6 – KEEPING OF ANIMALS

### 6.1 Animals, birds and poultry

- (a) A person must not, without a permit, keep any livestock, birds (including pigeons), or poultry other than a domestic animal, fowl hen or song bird on any property in a residential area.
- (b) A person must not allow to remain on property any noisy animal, bird (including pigeons), or poultry which in the opinion of an authorised officer may cause or creates a nuisance to any person residing in the neighbourhood.
- (d) A person must not keep pigeons on land other than in a pigeon loft constructed to Council's requirements.
- (e) Except on land in a rural area, an owner or occupier of land shall not keep:
  - (i) a rooster;
  - (ii) a goose or gander;
  - (iii) a turkey; or
  - (iv) a peacock or peahen.

### 6.2 Dogs

- (a) A person must not, without a permit, keep more than two dogs on a property in a residential area or commercial area, or on a property in a rural area which is less than five hectares.
- (b) No dog shall be housed or confined in an enclosure or tethered at a lesser distance than 5 metres from any dwelling on an adjoining property, and such enclosure shall comprise an area of not less than ten square metres in respect of each dog being confined.

### 6.3 Cats

- (a) A person must not, without a permit, keep more than two cats on a property in a residential area or commercial area, or on a property in rural area which is less than five hectares.
- (b) No person shall keep or allow to be kept a cat which in the opinion of an authorised officer causes a nuisance or damage to any person, a property or the environment.

#### 6.4 Poultry

- (a) A person must not keep on a property in a residential area or commercial area a number of fowl hens greater than ten mature birds.
- (b) An owner or occupier of land where poultry is kept, must be keep that poultry in a poultry house which is:
  - (i) at least 20m from the property frontage; (ii) at least 3m from any other street or road;
  - (iii) at least 12m from any dwelling whether on the same or adjoining property, and an enclosed run attached to a poultry house must also comply with this requirement.
- (b) A poultry house shall consist of a minimum floor area of five square metres to house ten fowls.
- (d) An owner or occupier of land on which a poultry house is located must ensure that it has:
  - (i) a location on ground which is well drained;
  - (ii) weatherproof walls of approved materials, provided that wire netting may be used in a portion of one wall;
  - (iii) a weatherproof roof of approved materials; and
  - (v) a wall height of not more than 2.1 metres.

*NOTE: The provisions of this Part referring to poultry do not apply to any commercial poultry farm.*

#### 6.5 Vermin control

- (a) The owner or occupier of a property shall keep the area of land within two metres of a poultry house, pigeon loft, bird cage or enclosure free from all dry grass, weeds, waste and other materials capable of harbouring vermin.
- (b) A person must not keep on any property where poultry or birds are kept, any food for their consumption unless such food is kept in vermin-proof receptacles or buildings.

#### 6.6 Cleanliness

- (a) The owner or occupier of a property shall cause every poultry house, pigeon loft, bird cage or enclosure, to be thoroughly cleansed as often as may be necessary and shall keep the same in a clean and sanitary condition at all times.
- (b) An owner or occupier of land where animals, birds or poultry are kept, must remove droppings and waste from any such animal, bird or poultry from time to time or as frequently as may be directed by an authorised officer so as not to cause a nuisance or offensive conditions.

## 6.7 Horses

- (a) A person must not, without a permit, keep any horse on a property in a residential area or commercial area.
- (b) A permit to keep a horse on any property in a residential area or commercial area shall not be considered unless the property concerned:
  - (i) is of an area of not less than 500 square metres;
  - (ii) has an adequate water supply; and
  - (iii) is securely fenced on all sides.
- (c) A permit for the keeping of a horse on any property in a residential area or commercial area will be assessed taking into consideration:
  - (i) the zoning of the land;
  - (ii) the proximity of adjoining properties;
  - (iii) the amenity of the area;
  - (v) the likely effects on adjoining owners;
  - (vi) the adequacy of shedding and fencing; and
  - (vii) any other matters relevant to the circumstances associated with the application.
- (d) Prior to the assessment of an application for a permit under this clause, the applicant must advise all adjoining owners and occupiers of the application in writing and of the fact that they may make written comments on the application to Council within 14 days of the advice of the application, and provide evidence to Council of such notification.
- (e) In assessing an application for a permit as required by clause 6.7(a), Council must take into consideration the views expressed in writing by any adjoining landowners or occupiers.

## 6.8 Control of disease

The owner or occupier of a property on which there is kept any animal, bird, or poultry, where the animal, bird or poultry develops any contagious or infectious disease which is or is likely to be injurious to any human being or other animal, that person shall obtain treatment from a qualified Veterinarian or destroy the animal, bird or poultry and properly dispose of the matter to the satisfaction of an authorised officer.

## 6.9 Animal excrement

- (a) A person in charge of an animal must not allow any part of the animal's excrement to remain on a road or on Council land.
- (b) A person in charge of a domestic animal must carry a suitable receptacle for the removal of that animal's excrement from a road or Council land.

## **PART 7 – WASTE**

### **7.1 Public litter bin**

A person must not place any domestic waste, builder's refuse, or trade or commercial waste in any public litter bin located on a road or on Council land.

### **7.2 Security of mobile waste bins**

An occupier of a property must ensure that any mobile waste bin put out on a road in order for its contents to be collected by, or on behalf of, Council is returned to that property as soon as reasonably practical after the contents of the mobile waste bin have been collected and, in any event, no later than 12 noon on the following day on which the contents of the mobile waste bin have been collected.

### **7.3 Use of mobile waste bins**

- (a) Except for the purpose of placing a mobile waste bin on a road for its contents to be collected by, or on behalf of, Council, a person shall not remove a mobile waste bin from the property to which it has been allocated by, or on behalf of, Council, except in accordance with an order or direction from an authorised officer of Council.
- (b) A person must not use a mobile waste bin for any purpose other than the storage and disposal of waste material in accordance with the directions given by Council from time to time.
- (c) Any person who is in possession of a mobile waste bin, which is not at the property to which it has been allocated by Council, must notify Council in writing of the location of the mobile waste bin and make it available for retrieval by Council in accordance with any directions of Council.

## **PART 8 – LIVESTOCK**

### **8.1 Disposal of livestock**

- (a) A person must not dispose of dead livestock or part thereof in a manner that, in the opinion of an authorised officer, is likely to cause a nuisance, detriment to the environment or adversely affect the health of any person.
- (b) A person must not allow any dead livestock or part thereof to remain on a road or on Council land.

### **8.2 Provision of effective fencing**

The owner or occupier of land used for the grazing of livestock must take all reasonable care to ensure that fencing is adequate for the purpose of preventing livestock from straying onto any adjoining road or land.

### **8.3 Livestock at large**

The occupier of land used for the grazing of livestock must take all reasonable care to ensure that livestock are securely confined within a fenced area at all times.

### **8.4 Droving of livestock**

A person must not, without first obtaining a livestock droving permit issued by Council drive livestock on a road.

### **8.5 Droving permits**

- (a) An application for a livestock droving permit:
  - (i) must be made in the appropriate form; and
  - (ii) must be accompanied by a certificate from a registered veterinarian regarding the health and fitness of livestock to be driven.
- (b) An authorised officer shall apply appropriate conditions on a permit taking into consideration the same requirements referred to in clause 8.7 of this Local Law.

### **8.6 Grazing of livestock**

A person must not, without first obtaining a livestock grazing permit issued by Council, graze livestock on a road.

## 8.7 Movement of livestock

A person who is in charge of movement of livestock on a road does not require a permit under this Local Law but must comply with the following requirements:

- (a) all livestock shall reach their destination by the most direct route consistent with the requirements of this Local Law and any direction of an authorised officer;
- (b) livestock are only to be on the road for the time it reasonably takes to move them to their destination;
- (c) as far as possible, the livestock are moved during daylight hours;
- (d) comply with any directions from an authorised officer with regard to:
  - (i) the route to be followed; and
  - (ii) the protection from damage likely to be caused by livestock to the road, vegetation, protected flora and fauna habitat any construction on the road, road infrastructure or private property.
- (d) the livestock are supervised and under effective control by a person who is competent in the management of livestock; and
- (f) any livestock excretion deposits on the road are removed if required by an authorised officer for prevention of danger to other road users.

## 8.8 Non application of clause

- (a) The provisions of clauses 8.1 to 8.7 do not apply to livestock being transported by vehicle or other means in circumstances where there is no contact between the livestock and the road.
- (b) The provisions of clauses 8.1 to 8.7 do not apply to a horse being ridden or led by some attachment in accordance with this local law.

## 8.9 Livestock movement between parts of one farm

- (a) The owner or occupier of any farm property where there are more than twenty movements of livestock in a calendar year either between two contiguous parts of one farm or between parts of one farm separated only by parts of the same farm must ensure the livestock are moved through the farm and not along any road.
- (b) Where a farm property abuts both sides of a dividing road, the owner or occupier of the farm property must ensure the livestock are moved directly across the dividing road and not along any road wherever, in the opinion of an authorised officer, it is practical to do so.

### 8.10 Prohibited roads

- (a) Council may, by resolution, specify roads or parts of roads which shall not be utilised for the droving, movement or grazing of livestock and such roads or parts of road shall be known as prohibited roads. Roads that will be considered as prohibited roads are roads that have been designated as High Conservation Value roads in Council's Roadside Management Plan.
- (b) No person shall drove, move or graze livestock on a prohibited road without first obtaining a permit from Council, which may be refused in Council's or an authorized officer's absolute discretion.

### 8.11 Responsibility of owners or occupiers of farm properties

The owner or occupier of any farm property, to or from which livestock are being driven, moved or grazed, shall be responsible to ensure:

- (a) adequate surface treatment measures in accordance with Council's requirements are applied between the road and each property access point; and
- (b) a vehicular crossing constructed in accordance with Council's requirements is provided and maintained at points where livestock either enter or exit the farm property to a road.

### 8.12 Right of way

If a person responsible for livestock on a road is notified of the approach of travelling livestock, the person must remove the livestock for which they are responsible to an adjoining location or keep them separate from the travelling livestock by means suitable for the purpose.

*Note: Travelling livestock (being livestock being driven in accordance with a valid livestock droving permit) have right of way over other stock on the road.*

### 8.13 Warning signs

- (a) A person involved in droving, movement or grazing of livestock must ensure that adequate warning of the presence of livestock on the road is given to other road users or potential road users.
- (b) In addition to complying with any permit or other conditions relating to warning signs to other road users, lighting requirements and the location, size, contents and colour of such devices, the person in charge of livestock must have regard to:
  - (i) any Australian Standards for such purposes;
  - (ii) any other signage necessary for road safety having regard to topography, conditions, livestock type and numbers; and
  - (iii) any other requirements of the Roads Corporation.



#### **8.14 Condition of livestock**

- (a) When doubt arises as to the health or fitness of livestock to be or being driven, moved or grazed, or there develops a potential risk from such livestock to the health or fitness of other livestock in the municipal district, an authorised officer may require that a registered veterinarian examine the livestock to be or being driven, moved or grazed. The veterinarian shall be appointed by Council or the authorized officer at the cost of the owner, drover or person in charge of the livestock.
- (b) In the event that the registered veterinarian confirms that the livestock are unhealthy or unfit to be driven, moved or grazed the authorised officer may refuse to allow such droving, movement or grazing to commence or continue.

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## PART 9 – CONSUMPTION AND POSSESSION OF LIQUOR

### 9.1 Consumption of Liquor

- (a) A person must not, without a permit, consume, carry or have in their control, an open container of liquor, on a road or on Council land unless:
  - (i) the Council has granted an exemption in writing either to an individual, a class of persons or to an event organizer permitting the consumption of liquor;
  - (ii) they are attending a premises which is licensed under the *Liquor Control Reform Act 1998*; or
  - (iii) they are consuming, carrying or have in their control an open container of liquor within a reserve between the hours of 8am and 10pm.
- (b) The Council may designate an area of the municipality to be a liquor prohibited area for a specified period as evidenced by the display of signage.
- (c) A designation made by Council under sub-clause 9.1(b) must be advertised on Council's website and in a newspaper generally circulating in the area prior to the commencement of the relevant period.

### 9.2 Permit considerations

In considering whether to grant an application for a permit under sub-clause 9.1 of this Local Law, Council must have regard to:

- (a) the location at which it is proposed to consume or possess liquor or have liquor under the applicant's control;
- (b) the time at which it is proposed to consume or possess liquor or have liquor under the applicant's control;
- (c) the purpose for which it is proposed to consumer or possess liquor or have liquor under the applicant's control;
- (c) whether, if the application is granted, the applicant will or is likely to engage in behavior which constitutes or may constitute a nuisance;
- (d) whether the grant of the application will be detrimental to health or safety;
- (e) whether the grant of the application will affect the enjoyment of a public or other place; and
- (g) any policy or guidelines adopted by Council from time to time.

### 9.3 Power to direct

If an authorised officer reasonably suspects that a person is in contravention of this Part of the Local Law, they may direct the person to dispose of the contents of any unsealed container.

## PART 10 - GENERAL

## 10.1 Permits

- (a) A person requiring a permit to do anything under this Local Law must make written application to Council and enclose the relevant fee.
- (b) Any fee which is payable for a permit is to be determined by resolution of Council.
- (c) Council or an authorised officer on its behalf may exempt any person or any particular activity from the need for a permit.
- (d) Council or an authorised officer on its behalf may require the applicant to provide more information before it deals with an application.
- (e) In considering an application for a permit, Council or an authorised officer, may require the applicant to give public notice of such application and may take into consideration any response to that notice, any policy or guidelines, any objections or submissions, any comments from other authorities, government departments or community organisations, and any other matter that is considered relevant.
- (f) Council or an authorised officer shall consider any such application and may grant a permit subject to such conditions as Council or such officer may in any particular case determine, in line with standard conditions applicable from time to time and any other conditions relevant to the particular application, or may refuse to grant a permit.
- (g) The refusal by an officer to grant a permit is of no effect until the refusal has been ratified by Council unless Council has delegated to the officer the authority to refuse permit applications which do not meet specified criteria.
- (h) No person shall obtain or attempt to obtain a permit by willfully making or causing to be made any false representation or declaration whether orally or in writing.
- (i) Any permit issued under this Local Law shall be determined by Council and may be amended, suspended or revoked at any time if Council or an authorised officer considers that there has been:
  - (i) a material misstatement or concealment of facts in relation to the application for a permit;
  - (ii) any material mistake in relation to the issue of the permit;
  - (iii) any material change of circumstances which has occurred since the issue of the permit;
  - (iv) a failure to comply with the conditions under which the permit was issued; or
  - (v) a failure to comply with a notice to comply within the time specified in the notice to comply.

- (j) Council or an authorised officer must notify the holder of a permit of Council's or the authorised officer's intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.
- (k) Unless it is sooner revoked or renewed, a 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.
- (l) A permit holder must not assign, transfer or encumber his or her permit.
- (m) Council may correct any permit issued under this Local Law if the permit contains a clerical error, an error arising from an accidental slip or omission, or 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.

## 10.2 Powers of Authorised Officers

An authorised officer, on becoming aware of a situation or activity which breaches this Local Law, may at their discretion.

- (a) determine not to take any action having regard to the relevant facts and circumstances of the matter;
- (b) give a verbal or written warning;
- (c) issue a verbal direction;
- (d) issue a written notice to comply;
- (e) issue an infringement notice; or
- (f) commence a prosecution.

## 10.3 Offences

- (a) A person who:
  - (i) contravenes or fails to comply with any provision of this Local Law, or any incorporated document;
  - (ii) contravenes or fails to comply with any condition contained in a permit issued under this Local Law;
  - (iii) knowingly provides false information in support of an application for a permit issued under this Local Law;
  - (iv) knowingly supplies false or misleading information to an authorised officer;
  - (v) fails to comply with a verbal or written direction issued by an authorised officer;
  - (vi) fails to comply with a Notice to Comply served by an authorised officer;
  - (vii) fails to comply with a Notice of Impoundment served by an authorised

officer;

- (viii) refuses or neglects to furnish information to an authorised officer when required to do so;
- (viii) assaults, obstructs, or attempt to obstruct, threaten, abuse, insult, intimidate, or attempt to intimidate any authorised officer in the exercise of their powers, functions or duties under this Local Law;
- (x) fails to comply with a sign erected by Council; or
- (xi) makes or attempts to make any agreement with an authorised officer to induce that authorised officer to compromise their duty -

is guilty of an offence and if the offence is proven in Court the person is liable to a penalty not exceeding 20 penalty units and a further penalty of 2 penalty units for each day after a finding of guilt for an offence during which the contravention continues.

- (b) If a corporation commits an offence against this Local Law, any natural person who is concerned with or takes part in the management of the corporation may also be charged with the same offence.

#### **10.4 Power to act in urgent circumstances**

- (a) Where a person has failed to comply with any requirement of this Local Law the Council or an authorized officer may take any action considered necessary to prevent any danger to the public or environment, or any nuisance arising, provided that:
  - (i) Council considers that the circumstances are sufficiently urgent and the time necessary, or that the potential difficulty in serving a notice to comply may place a person, animal, land or the environment at risk or in danger of detrimental effect;
  - (ii) the Chief Executive Officer of Council or their delegate, not being the authorised officer administering sub-clause 10.4, approves of the proposed action; and
  - (iii) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the person to whom a notice has been issued.
- (b) Urgent action taken under this clause shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.
- (c) Council or the person authorised shall issue a notice of urgent works to the person responsible where possible prior to the remedial works being undertaken or as soon as practicable.
- (d) Any costs incurred by Council in undertaking any urgent actions will be borne by the person to whom the notice has been issued.

## 10.5 Delegations

Council may delegate to an authorised officer the power to sign, issue, revoke or cancel any notice, order, or permit on behalf of Council and do any act, matter or thing in relation to this Local Law.

## 10.6 Impoundment

- (a) An authorised officer may seize and impound any goods, chattels, animals, birds, items or things that contravene this Local Law, are in contravention of any condition placed on any permit issued under this Local Law or are considered, in the opinion of an authorised officer, to pose a risk to public safety, the environment or to Council assets.
- (b) If an authorised officer has impounded an animal or other thing in accordance with this Local Law, Council may refuse to release it until the appropriate fee or charge for its release has been paid to Council.
- (c) Any release fee is to be determined by resolution of Council.
- (d) The costs and expense of the seizure and impoundment of any item or thing shall be paid by the owner or person acting on behalf of the owner to Council and until so paid shall constitute a debt owing by such owner to Council and is recoverable summarily as a debt before the Magistrates' Court or in any Court of competent jurisdiction.
- (e) As soon as possible after impoundment, the authorised officer will, if practicable, notify the owner or person responsible for the animal or other thing which has been impounded by issuing a Notice of Impoundment advising the fees and charges payable and time by which the animal or other thing must be retrieved, and the animal or other thing impounded will be released when the fees and charges are paid.
- (f) If after 28 days from the date of impoundment, an impounded animal or other thing has not been retrieved, an authorised officer may take action to dispose of such impounded animal or other thing either by sale (public auction, public tender or private treaty), by disposal at a municipal land fill or transfer station or given away as the Chief Executive Officer thinks fit.
- (g) When the identity or whereabouts of the owner or person responsible for the impounded animal or other thing is unknown, the authorised officer must take reasonable steps to ascertain the identity or whereabouts of that person and once satisfied that all reasonable efforts have been made and the identity or whereabouts is still unknown, may proceed to dispose of the animal or other thing.
- (h) Any proceeds from the disposal of impounded animals or items under this Part will be paid to the owner except for the reasonable costs incurred by Council in the administration of this Local Law.
- (i) In the event that the owner cannot be identified or located within 1 year of impounding any animal or other thing, any proceeds will be paid into the municipal fund.

- (j) A person must not, except with the authority of an authorised officer or pursuant to an order of a Court, remove, alter or interfere in any way with an animal or other thing, seized or detained by an authorised officer in the exercise of his powers, functions or duties under this Local Law.
- (k) Council nor any authorised officer nor any officer, servant, agent or contractor of Council shall be liable to any person for any damage howsoever done or caused to, or for any loss sustained in respect of any property seized and detained, sold, disposed of or destroyed pursuant to the provisions of this Local Law.
- (l) Council does not bear any responsibility for any damages caused or losses sustained as a result of any impoundment under this Local Law.

### **10.7 Infringement notices**

Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, an infringement notice may be issued and served on that person.

A person on whom an infringement notice has been issued must pay to Council the amount specified within 28 days.

Council or an officer authorised on its behalf may at any time withdraw an infringement notice either as a result of consideration of any internal review or with a view to prosecuting for an offence

In the event of the failure of a person served with an infringement notice to pay the amount specified within 28 days of the issue of the notice, or such further time as Council or an officer authorised on its behalf may permit, Council or the officer authorised on its behalf may pursue the matter by instituting prosecution proceedings.

The penalties fixed for infringement notices served under this Local Law are set out in Schedule 1, or if no penalty is specified, the penalty is 2 penalty units.

### **10.8 Notices to Comply**

- (a) Where an authorised officer reasonably believes that a person has committed an offence against this Local Law, a Notice to Comply may be issued and served on that person.
- (b) A Notice to Comply must specify the period by which the person must comply with the specified directions, which must be reasonable having regard to the circumstances.

## SCHEDULE 1

### PENALTIES FIXED FOR INFRINGEMENTS

CLAUSE NUMBER	OFFENCE	INFRINGEMENT PENALTY
<b>Part 2</b>	<b>Amenity Health and Safety of the Municipal District</b>	
2.1	Dangerous land	2
2.2	Unsightly land	2
2.3	Storage of machinery or second hand goods	2
2.4	Disused compartments	2
2.5	Fires in the open air	2
2.6	Burning of offensive materials	2
2.7	Vegetation	2
2.8	Pest control	2
2.9	Bees, wasps and fruit flies	2
2.10	Spruiking, Entertaining and Public Performances	2
2.11	Wheeled Recreational Devices	2
2.12	Conduct in public places	2
2.13	Recreation vehicles	2
2.14	Horses in public places	2
2.15	Camping	2
2.16	Dilapidated premises	2



CLAUSE NUMBER	OFFENCE	INFRINGEMENT PENALTY
<b>Part 3</b>	<b>Council Land</b>	
3.1	Bulk refuse containers and clothing bins	2
3.2	Load limits on roads	2
3.3	Works on and use of Council land	2
3.4	Accessing Council land	2
3.5	Storage of private property on roads	2
3.6	Damage to Council Assets	2
3.7	Use of Reserves	2
3.8	Restriction on entry into Reserves	2
<b>Part 4</b>	<b>Roads and Footpaths</b>	
4.1	Servicing of vehicles on roads	2
4.2	Trading of goods or services	2
4.3	Display of goods and other services	2
4.4	Street appeals	2
4.5	Distribution of handbills	2
4.6	Processions and demonstrations	2
4.7	Shopping trolleys	2
4.8	Discharge of water	2

CLAUSE NUMBER	OFFENCE	INFRINGEMENT PENALTY
<b>Part 5</b>	<b>Building Sites</b>	
5.1	Stormwater protection	2
5.2	Building work	2
5.3	Sanitary facilities	2
5.4	Containment of waste	2
5.5	Disposal of waste	2
5.6	Inspections	2
<b>Part 6</b>	<b>Keeping of Animals</b>	
6.1	Animals, birds and poultry	2
6.2	Dogs	2
6.3	Cats	2
6.4	Poultry	2
6.5	Vermin control	2
6.6	Cleanliness	2
6.7	Horses	2
6.8	Control of disease	2
6.9	Animal excrement	2
<b>Part 7</b>	<b>Waste</b>	
7.1	Public litter bin	2
7.2	Security of mobile waste bins	2
7.3	Use of mobile waste bins	2

CLAUSE NUMBER	OFFENCE	INFRINGEMENT PENALTY
<b>Part 8</b>	<b>Livestock</b>	
8.1	Disposal of livestock	2
8.2	Provision of effective fencing	2
8.3	Livestock at large	2
8.4	Droving of livestock	2
8.6	Grazing of livestock	2
8.7	Movement of livestock	2
8.9	Livestock movement between parts of one farm	2
8.10	Prohibited roads	2
8.11	Responsibility of owners or occupiers of farm properties	2
8.12	Right of way	2
8.13	Warning signs	2
<b>Part 9</b>	<b>Consumption and possession of liquor</b>	
9.1	Consumption of liquor	2
9.3	Power to direct	2

CLAUSE NUMBER	OFFENCE	INFRINGEMENT PENALTY
<b>Part 10</b>	<b>General</b>	
10.4	Offences	
10.4(a)(i)	contravenes or fails to comply with an incorporated document;	2
10.4(a)(ii)	contravenes or fails to comply with any condition contained in a permit issued under this Local Law.	2
10.4(a)(iii)	knowingly provides false information in support of an application for a permit issued under this Local Law,	2
10.4(a)(iv)	knowingly supplies false or misleading information to an authorised officer.	2
10.4(a)(v)	fails to comply with a verbal or written direction issued by an authorised officer.	2
10.4(a)(vi)	fails to comply with a Notice to Comply served by an authorised office	2
10.4(a)(vii)	fails to comply with a Notice of Impoundment served by an authorised officer	2
10.4(a)(viii)	refuses or neglects to furnish information to an authorised officer when required to do so.	2
10.4(a)(viii)	assaults, obstructs, or attempt to obstruct, threaten, abuse, insult, intimidate, or attempt to intimidate any authorised officer in the exercise of their powers, functions or duties under this Local Law	2
10.4(a)(x)	fails to comply with a sign erected by Council.	2
10.4(a)(xi)	makes or attempts to make any agreement with an authorised officer to induce that authorised officer to compromise their duty	2