



# **YARRA RANGES SHIRE COUNCIL**

## **General Provisions Local Law 2012- (No 1 of 2012)**

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## **Part 1 - Preliminary**

### **1.1 Title**

This is the General Provisions Local Law 2010 and may be referred to as the General Provisions Local Law.

### **1.2 Objectives**

The objectives of this Local Law are to:

- (a) provide for the peace, order and good government of the municipal district;
- (b) prohibit, regulate and control activities, events, practices or behaviour in public places so that no detriment is caused to the amenity of the neighbourhood, nor nuisance to a Person nor detrimental effect to a Person's Property;
- (c) protect Council's assets and land and to regulate their use;
- (d) promote a physical and social environment free from hazards to health in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community;
- (e) provide for those matters which require a Local Law under the Act and any other Act; and
- (f) provide for the administration of Council powers and functions.

### **1.3 The Power to Make this Local Law**

The Council's power to make this Local Law is contained in section 111 (1) of the **Local Government Act 1989** and section 42 of the **Domestic Animals Act 1994**.

### **1.4 Commencement**

This Local Law comes into operation at the beginning of the day on which it is made.

### **1.5 Revocation Date**

Unless sooner revoked, this Local Law ceases to operate 10 years after the date on which it is made.

### **1.6 Revocation of other Local Laws**

The following local laws in operation before the commencement of this Local Law are revoked and no longer have any force or effect in any part of Council's municipal district:

- (a) Animal Control Local Law 2007
- (b) Streets & Roads Local Law 2005
- (c) Scaregun Control Local Law 2002
- (d) Consumption of Liquor in a Public Place Local Law 2007

### **1.7 Area of Operation**

This Local Law applies throughout the whole of the municipal district.

### **1.8 Interpretation of this Local Law**

In this Local Law, unless the contrary intention appears:

- (a) a reference to a clause is a reference to a clause in this Local Law;



- (b) a reference to a sub-clause is a reference to a sub-clause of the clause in which the reference is made;
- (c) a reference to a paragraph is a reference to a paragraph of the sub-clause in which the reference is made;
- (d) a reference to a Schedule or Part is a reference to a Schedule or Part of this Local Law;
- (e) a reference to one gender includes a reference to each other gender; and
- (f) a reference to the singular is also a reference to the plural.

## 1.9 Definitions

In this Local Law, unless inconsistent with the context:

**“Act”** means the **Local Government Act 1989**.

**“Advertising Sign”** means any placard, notice board, sign, structure, banner, “A” frame or other similar device, whether portable or affixed to any structure, which is used for the purposes of:

- (a) soliciting sales;
- (b) notifying people of the presence of an adjacent property where goods or services may be obtained; or
- (c) advertises or promotes goods, services, an event, pastime or competition.

**“animal”** includes a bird.

**“Animal Housing”** means any building or structure used to contain or house an animal.

**“Another property”**, for the purposes of Part 12 – Scareguns means property other than the property on which the Scaregun is located and which is occupied by a Person or Persons other than the Person who is using or who is allowing or authorising the use of the Scaregun.

**“Applicant”** means the person who applies for a permit under this Local Law

**“Authorised Officer”** means an authorised officer under section 224 of the Act.

**“barbeque”** means a structure, device or contraption (not enclosed in a building) which is used primarily as a cooking facility.

**“Builder”** means a person engaged by or on behalf of the owner or occupier of a Building site to carry out Building Works;

**“Building refuse”** means:

- (a) any solid or liquid domestic or commercial waste, debris or other refuse, including any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and like material, substance or thing; and
- (b) generated by or in connection with Building Works;

**“Building site”** means any land on which Building Works are being carried out;

**“Building Works”** means

- (a) any construction, renovation, alteration, removal, relocation or demolition of a building on any land and includes any excavation, earthworks, concreting, landscaping or maintenance works being carried out on any land; and
- (b) the transactional value of which is \$5,000 or more.

**“Bulk Rubbish Container”** means a bin, skip or other container used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but excludes containers used in connection with Council’s regular domestic rubbish collections.

**“Business Day”** means a day that is not:

- (a) a Saturday or Sunday; or
- (b) a day that is wholly or partly observed as a public holiday throughout the Melbourne metropolitan area.

**“camp”** includes to sleep, rest or sojourn.

**“Caravan”** means and includes a caravan, motor home, bus and any other object or structure having the general characteristics of a caravan, notwithstanding that any of the wheels or axles thereof have been removed or that it is resting directly on the ground or is

placed on blocks or other supports, and which is designed to be used for the temporary accommodation of people.

**“Car park”** means an area which is located on land –

- (a) owned by;
- (b) occupied by; or
- (c) under the care, management and control of Council

and which is designated as being, or set aside for the purposes of a car park but does not include any area reserved for the deposit or return of Shopping Trolleys.

**“Charitable organisation”** means any society or association of Persons and community group that provides charitable relief, welfare or services to those in need or that has as its principal object advancement of the environment and where the funds of which are obtained in whole or in part by voluntary contributions, public subscriptions, or through donations from which there is no profit for commercial or personal gain.

**“Charity Clothing Bin”** means any receptacle designed for the collection of donated clothing or goods for recycling.

**“Chief Executive Officer”** means the member of Council staff appointed pursuant to section 94(3) of the Act to be the Chief Executive Officer and any member of Council staff to whom the Chief Executive Officer has delegated a power, duty or function under this Local Law.

**“commercial waste”** means any refuse, rubbish, slops or other waste matter arising from or generated by any trade, industry or commercial undertaking.

**“Competitive Game or Sport”** means a game which is part of a formal competition organised by a club, league, school, district, association or any like body.

**“contractor”** means a Person who has entered into a written agreement with Council to provide any service or perform any function.

**“Council”** means Yarra Ranges Shire Council.

**“Council Land”** means any land either vested in or under the control of Council, and includes a reserve, watercourse and reservation, parking area and the like, together with any improvements erected thereon but excludes a Road.

**“Dealing in Goods”** includes selling goods, exposing goods for sale or possessing goods with the intention of selling them or offering them for sale.

**“Delegated Officer”** means a member of Council staff to whom the relevant power has been delegated under section 98 of the Act.

**“Environment Protection Authority”** means the Environment Protection Authority constituted under the **Environment Protection Act 1970**.

**“Farm animal”** means any horse, cattle, camel, donkey, mule, cow, bull, steer, sheep, pig, deer, goat, ox, ostrich, emu, alpaca and any other animal kept for harvest of fleece, hide or meat; irrespective of whether the animal is kept as a companion animal.

**“Farm land”** has the same meaning as in the **Valuation of Land Act 1960**.

**“garbage”** means and includes household refuse and rubbish, food waste, discarded food or any offensive matter (other than sewage, manure and hazardous materials), but does not include hard rubbish or recyclable material.

**“Graffiti”** means an inscription, figure or mark written, painted, drawn or otherwise displayed on any surface.

**“Gross Vehicle Mass”** means the weight of a vehicle plus its carrying capacity.

**“land”** means and includes all land within the Municipal District but does not include:

- (a) a highway within the meaning of the **Road Safety Act 1986**; or

(b) any land under the control of a Statutory Authority.

“**Livestock**” means and includes horses, cows, bulls, sheep, pigs, poultry, birds or other animals or birds raised for domestic or commercial purposes.

“**Manager**” means a person or a contractor appointed by Council to manage Council Land and is deemed to be the person in charge of the site.

“**Merchandise**” means all goods which are sold or offered for sale or in respect of which a sale can be arranged from or within Premises, or which are exhibited.

“**Motor Vehicle**” has the same meaning as in section 3 of the **Road Safety Act 1986**.

“**Motorised recreational vehicle**” means and includes any Vehicle which may be propelled or operated by internal combustion, steam, gas, oil, electricity or any other power and which is normally used for recreational purposes but does not include a pedal powered vehicle.

“**Municipal Building**” means any building

(a) owned and occupied by; or

(b) under the care, management and control of

Council but except as otherwise provided does not include any Municipal Offices.,

“**Municipal District**” means the area from time to time comprising the municipal district of Council.

“**Municipal Offices**” means the offices of Council.

“**nature strip**” means the area between the carriageway and the property boundary on any road which abuts the property

“**nuisance**” means any condition which is liable to be noxious, dangerous or injurious to health, and includes any noise created by an animal or any other thing which persistently occurs or continues to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other Premises.

“**obstruction**” includes any tree or plant on a nature strip or otherwise on a Road that has been planted by, or is maintained by, the owner or Occupier of adjacent or nearby Premises which restricts passage along a Road, but does not include any plant planted by Council.

“**Occupier**” means the person in charge of, or having the management or control of any Premises and includes the tenant, or employees and other persons in control of land.

“**Offence**” means an offence under this Local Law.

“**Organisation**” means any body, whether incorporated or not, and includes a club, association, group, league and co-operative.

“**Owner**” in relation to an animal, includes a Person who keeps or harbours the animal or has the animal in his or her care for the time being, whether the animal is at large or in confinement.

“**pavement**” includes every footpath, lane or other place within the Municipal District which is habitually used by pedestrians and not by motor Vehicles.

“**Penalty Unit**” has the meaning as defined by section 110 of the **Sentencing Act 1991**.

“**permit**” means a permit issued under this Local Law.

“**Permit holder**” means a person to whom a permit has been issued under this Local Law.

“**permit fee**” means a fee fixed by resolution of Council.

“**Person**” includes a partnership, unincorporated body, a corporation, or an association incorporated under the **Associations Incorporated Act 1981**.

“**Premises**” includes land, buildings and a building under construction.

“**Private Land**” means land that is not Council Land, a Road or a Public Place.

**“Procession”** means an organised group of people proceeding along a Road, or gathering for a ceremony or function, and includes fun runs and bicycle events.

**“Public Notice”** has the same meaning as in the Act.

**“Public Place”** means:

- (a) any vacant land or vacant space adjoining a Road;
- (b) a place to which members of the public have access, or are permitted to have access, whether or not on payment of a fee, and whether or not that place is sometimes closed but does not include:
  - (i) Crown land, unless managed by Council; or
  - (ii) a place managed by a government department or agency or a Statutory Authority;
- (c) any bridge, court, alley, passage or thoroughfare formed on private land; or
- (d) a wharf, pier or jetty.

**“rally”** means a meeting of people making a political protest or showing support for a cause.

**"Recreational Vehicle"** includes a mini-bike, trail bike, go-kart, motor scooter, or any motorised device used for the conveyance of a person, whether on land or water.

**“Reservation”** means a physical provision on a highway which divides it longitudinally (other than a longitudinal line or a series of lines marked on a carriageway) and includes a nature strip adjoining a footpath or property line.

**"Reserve":**

- (a) means any land, commons, or public reserve either owned by Council or of which the management is vested in Council;
- (b) also means any land purchased or rented or otherwise provided by, granted or given to or vested in Council, for the provision of pleasure grounds or places of public recreation, including playgrounds, car parks, bike trails, gardens and other areas within the land; and
- (c) includes any tree reserve, garden, lawn or ornamental plantation in or upon any Road within the Municipal District.

**"Residence"** includes part of a building used or intended to be used as a separate residence, as well as a flat and unit.

**"resident"** means a Person who has a place of Residence within the Municipal District.

**“Residential area”** means an area zoned as being, or reserved, for residential purposes under the planning schemes applicable within the Municipal District and used predominantly for residential purposes where the residential use is carried out on lots generally less than 4000 square metres in area.

**“Residential premises”** means a building used to permanently or temporarily accommodate Persons and includes a dwelling, residential hotel, hostel, motel, boarding home and bed and breakfast establishment.

**“responsible road authority”** has the same meaning as in the *Road Management Act* 2004.

**"Road"** has the same meaning as in the Act.

**“Scaregun”** means a gas gun or similar gun designed to scare birds from attacking crops, but does not include a firearm or any other bird scaring device.

**“Service Authority”** means any company or Statutory Authority responsible for the installation of telecommunications, gas, electricity, water, sewerage or drainage facilities in or on a Road, road related area or easement..

**“Shopping Trolley”** means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods.

**“skateboard”** means any board on which a person may stand, crouch, or lie and which:

- (a) is designed to enable or facilitate self-propulsion; and
- (b) beneath which is fitted a set or sets of rollers

and includes roller skates, in-line skates and roller blades.

**“Statutory Authority”** means a Government Department, or a body established by an Act of the Parliament of Victoria, any other State or Territory of Australia or the Commonwealth of Australia.

**“Street Festival”** means an organised recreational, cultural, commercial or social gathering of people which is held on a Road.

**“Street Stall”** means a table, structure, furniture, sign or fixture erected for the temporary display of goods, whether or not for sale.

**“street furniture”** means any sign, notice, structure, or fixture which is owned, erected, or maintained by Council and which is located on, or adjacent to a Road.

**“Street Party”** means an organised social gathering of people from one or several adjacent roads that is held on a Road.

**“Toy Vehicle”** means a Vehicle other than a bicycle, ordinarily used by a person at play and designed to be propelled by human power, and includes a tricycle, scooter, skateboard, roller skates, roller blades and similar toys or devices.

**“Traffic Control Item”** means a Major Traffic Control item or a Minor Traffic Control item, within the meaning of the *Road Safety (Traffic Management) Regulations 2009*.

**“Unmanaged honeybee swarm”** means a colony of honeybees hiving or swarming in a location not in accordance with the *Apiary Code of Practice* nor under management of a registered apiarist attempting to comply with the *Apiary Code of Practice*.

**“Vacant Land”** means a property on which there is no house or other structure approved for human habitation.

**“Vehicle”** has the same meaning as the **Road Safety Act 1986**.

**“Vehicle Crossing”** means a constructed area that provides for the passage of Vehicles from a carriageway to private property and includes the kerb, channel, nature strip and footpath.

**Explanatory note:** Expressions used in this Local Law generally have the same meaning as in the **Local Government Act 1989**, unless the contrary intention appears. In that Act, **“road”** is defined to include streets, rights of way, proclaimed streets or roads, footpaths, bicycle paths, nature strips, culverts, kerbing and other land or works forming part of the road.

## **1.10 Prescriptions**

- (a) Whenever this Local Law enables Council to prescribe a thing, Council must prescribe the thing by making a resolution to that effect.
- (b) Before prescribing any thing Council must give Public Notice of what is proposed and consider any submission made in response to the Public Notice.
- (c) A prescription made under this Local Law will not have any force or effect until details of the prescription appear in a Public Notice.
- (d) All prescriptions made under this Local Law must appear on Council’s website, and in a register which is available for public inspection at Council’s principal office during normal business hours.

## **Part 2 - Streets and Roads (Traffic)**

### **2.1 Purpose**

The purpose of this Part is to:

- (a) regulate the use of roads throughout the municipality;
- (b) regulate the permanent or temporary closure of Roads;
- (c) protect the safety of Road users; and
- (d) provide for the fair and equitable use of Roads.

### **2.2 Interpretation**

In this Part:

**"Heavy Motor Vehicle"** means a Motor Vehicle which:

- (a) has an unladen weight of more than 3 tonnes;
- (b) is designed to seat a driver and more than 12 adults; or
- (c) has mounted or incorporated on or in it machinery, plant or apparatus with a total weight of more than 3 tonnes.

### **2.3 Closed Roads**

A Person must not, without the permission of Council, drive or cause to be driven a Vehicle on, or onto any:

- (a) Road, bridge, or culvert; or
- (b) part of a Road, bridge or culvert;

which has been closed in accordance with the Act.

**Penalty: 10 Penalty Units**

### **2.4 Prevention of Injury to Persons and Damage to Property**

A Person must not remove, destroy, damage, interfere or tamper with, or deface any:

- (a) obstruction, or
- (b) barrier

placed on a Road in accordance with the Act.

**Penalty: 10 Penalty Units**

### **2.5 Restriction on Use of a Road**

If, in the opinion of Council, a Road, or part of a Road, is likely to be damaged by a particular class of Vehicle (including but not limited to a Heavy Motor Vehicle), it may prohibit that class of Vehicle from using that Road or part of the Road, for as long as it considers is necessary to prevent the damage.

### **2.6** A Person must not, without a permit, drive a Vehicle on a Road when that particular class of Vehicle is prohibited from using that Road as indicated on a sign authorised by Council or the Roads Corporation pertaining to that Road.

**Penalty: 10 Penalty Units**

## Part 3 - Vehicles

### 3.1 Purpose

The purpose of this Part is to:

- (a) empower an Authorised Officer to impound unregistered or abandoned Vehicles left standing on a Road, or other Council Land;
- (b) regulate and control activities in relation to Vehicles on any Road or Council Land; and
- (c) prohibit the storage of Vehicles on any Road or other Council Land.

### 3.2 Abandoned or Derelict Vehicles

A Person must not abandon, leave or allow to be left, in or on a Public Place, Road, Reserve or Council Land any Vehicle or Recreational Vehicle that is:

- (a) not currently registered with or having a permit from the Roads Corporation or any other relevant authority (if it is of a class of Vehicle which requires it to be, or is usually registered under the **Road Safety Act 1986**); or
- (b) derelict to such an extent as to be unable to move under its own power and is in disrepair.

**Penalty: 10 Penalty Units**

### 3.3 Impounding unregistered or abandoned Vehicles

Where a Vehicle left standing on a Road or other Council Land:

- (a) is unregistered; or
- (b) has been standing for a least seven consecutive days and in the opinion of an Authorised Officer has been abandoned

it may be impounded by an Authorised Officer.

### 3.4 Other Vehicles

Where a Vehicle left standing on a Road or other Council Land is:

- (a) causing an unlawful obstruction; or
- (b) unlawfully parked

it may be impounded by an Authorised Officer.

### 3.5 Repair of Vehicles and Storage of Vehicles

- (a) A Person must not repair, paint, maintain or service a Vehicle on any Road or Council Land except where it is necessary to undertake minor repairs to get the vehicle underway or moving.

**Penalty: 10 Penalty Units**

- (b) A Person must not use any Road or other Council Land for the purpose of storing any Caravan, trailer, boat or damaged Vehicle.

**Penalty: 10 Penalty Units**

- (c) Where, in the opinion of an Authorised Officer, this clause 3.5 is not being complied with, the Authorised Officer may serve a Notice to Comply on the owner of the Vehicle being repaired, or Caravan, trailer, boat or damaged Vehicle being stored.



- (d) If the owner of the Vehicle being repaired, or Caravan, trailer, boat or damaged Vehicle being stored fails to comply with a Notice to Comply served under this clause 3.5, the Vehicle being repaired, or Caravan, trailer, boat or damaged Vehicle being stored may be impounded by an Authorised Officer.

### **3.6 Council powers in relation to impounded Vehicles**

Where a Vehicle impounded in accordance with this Part is not claimed and removed by the owner or Person acting on the owner's behalf within the time determined by Council, Council may cause the Vehicle to be:

- (a) destroyed;
- (b) given away; or
- (c) offered for sale by auction or public tender.

### **3.7 Vehicles in a Public Place and Other Locations**

A Person must not drive or ride a registered or unregistered Vehicle or Recreational Vehicle in or on a Public Place, Road, Reserve or Council Land that has not been designed or developed for the purpose of parking, riding or driving a Vehicle or Recreational Vehicle.

**Penalty: 10 Penalty Units**

### **3.8 Sale of Vehicles**

A Person must not park or leave standing a Vehicle, or cause a Vehicle to be parked or left standing, on any Road or Council Land or in any Public Place for the purpose of exposing or displaying that Vehicle for sale.

**Penalty: 10 Penalty Units**

### **3.9 Vehicles on Private Land**

An owner or Occupier of Private Land must not, without a permit, keep on that Private Land more than two Vehicles which are not currently registered with the Roads Corporation or any other relevant authority (if it is of a class which requires it to be, or is, usually registered under the **Road Safety Act 1986**).

**Penalty: 10 Penalty Units**

### **3.10 Heavy Vehicles**

- (a) Except where allowed under the Municipal Planning Scheme, a Person must not, without a permit, park, keep, store, repair, or allow to remain on any Residential premises a Vehicle which is greater than 7.5 metres in length or has a Gross Vehicle Mass of 4.5 tonnes or greater.
- (b) When considering an application for a permit under clause 3.10(a), Council must consider all of the following:
  - (i) the location of the Premises;
  - (ii) the proximity to adjoining Premises;
  - (iii) the amenity of the area;
  - (iv) the likely impact on the amenity of the area;
  - (v) the type and number of Vehicles to be parked, kept, stored, repaired, or allowed to remain on the Residential premises;
  - (vi) the likely effects on adjoining owners and Occupiers of Premises;

- (vii) the location where the Vehicle is proposed to be parked, kept, stored, repaired or allowed to remain on the Residential premises or Vacant Land in relation to surrounding dwellings;
- (viii) any relevant Act, regulation or policy;
- (ix) the Municipal Planning Scheme;
- (x) the likelihood of causing a nuisance;
- (xi) the intensity, duration and frequency of noise heard from a habitable room of a Residence other than the Residential premises on which the Vehicle is parked; and
- (xii) any other relevant matter

## **Part 4 - Street Naming and Numbering**

### **4.1 Purpose**

The purpose of this Part is to provide for Roads within the municipality to be named and signed and Premises to be numbered to assist Emergency Services to easily and quickly locate Premises in the case of an emergency as well as for the proper administration of Council functions.

### **4.2 Council to approve Road Names**

(a) A Person must not, without the consent of Council, apply a name to a Road.

#### **Penalty: 5 Penalty Units**

(b) This clause does not apply to any freeway or to any supplementary name applied to the entire length of a Road for which Council is not the responsible road authority.

(c) In determining the naming of Roads or whether to change the name of a Road, Council must take into account any guidelines issued by the Registrar of Geographic Place Names.

### **4.3 Allocation of Numbering**

Council may allot to Premises such numbers as it considers necessary to identify Premises and may from time to time make such changes to numbers as it deems fit.

### **4.4 Requirement to number premises**

(a) An owner or Occupier of Premises must clearly mark the Premises with the numbers allotted by Council and must renew the numbers as often as may be necessary.

#### **Penalty: 5 Penalty Units**

(b) The number must be marked in such that it can, at any reasonable time, be clearly seen by any person using the carriageway that abuts such Premises.

(c) Where an owner or Occupier of Premises fails to comply with this clause 4.4 an Authorised Officer may issue a Notice to Comply.

### **4.5 Council may number premises**

Council may, where the owner or Occupier of Premises does not mark the Premises with the number allotted, cause the Premises to be numbered and recover the cost of doing so from the owner or Occupier as a debt due to Council.

### **4.6 Interfering with numbers and street signs**

A Person must not:

(a) destroy, pull down, obliterate or deface the name of any Road, or the name or number of any Premises; or

(b) paint, affix or set up any name to any Road, or any name or number to any Premises

contrary to the provisions of this Local Law.

#### **Penalty: 5 Penalty Units**

#### **4.7 Public Notice of a Road Name**

Prior to naming a Road or approving a change of name of a Road, Council must give Public Notice and a Person may make a submission about the proposed name or change of name.

## **Part 5 - Trading from a Road or to a person on a Road**

### **5.1 Purpose**

The purpose of this Part is to regulate the:

- (a) use of Roads and other places by Persons Dealing in Goods and services; and
- (b) practice of soliciting and collecting gifts of money or subscriptions.

### **5.2 Roadside Trading**

A Person must not, without a permit:

- (a) erect, or place, or position on any Road or in any Public Place, a Vehicle, Caravan or trailer (whether with or without any ancillary table, stall or other similar structure) for the purpose of selling or offering for sale any goods or services; or
- (b) sell, or offer for sale, any goods or services from a property or a Public Place adjacent to a Road to any person who is on that Road or in that Public Place.

#### **Penalty: 10 Penalty Units**

<p><b>Explanatory Note:</b> Clause 5.2 does not purport to regulate goods being home delivered or sold directly to Occupiers of Premises.</p>
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### **5.3 Qualifications**

Clause 5.2 does not apply to:

- (a) a Charitable organisation;
- (b) goods sold in a legally established market or fair; or
- (c) a Person who has a current lease or licence of the land on which the activity is taking place.

### **5.4 Hawkers Pedlars and Itinerant Traders**

A Person must not, without a permit, sell or offer for sale goods carried about on the Person or on any animal or in any movable conveyance on any Road or in any Public Place.

#### **Penalty: 10 penalty units**

### **5.5 Requirements for granting a Permit**

In determining whether to grant a permit under this Part, Council or an Authorised Officer must take into account:

- (a) whether the safety of Road users or the passage of Vehicles will be affected by the placement;
- (b) whether the activity will disturb, annoy or disrupt adjacent property owners or Occupiers;
- (c) the type of goods which the applicant proposes to sell or offer or display for sale;
- (d) the proximity of retail outlets and the type of commodities offered for sale within such outlets;

- (e) whether the activity will be detrimental to the amenity of the area;
- (f) whether appropriate arrangements can be made for:
  - (i) waste water disposal;
  - (ii) toilet facilities for use by the applicant and/or customers;
  - (iii) litter and garbage;
  - (iv) lighting; and
  - (v) Advertising Signs;
- (g) whether the consent of the Responsible Road Authority has been obtained where the Road is not one for which Council is the responsible road authority; and
- (h) any other matter relevant to the circumstances of the application.

## 5.6 Street Stalls

A Person must not operate or cause to be operated any Street Stall in or on a Road, Council Land or Public Place in such a manner that:

- (a) the safety of any person or the passage of Vehicles will be affected;
- (b) the activity will disturb, annoy or disrupt adjacent property owners or Occupiers;
- (c) the activity will unfairly impact on retail outlets which sell, offer or display for sale goods that are similar to those offered by the Person; or
- (d) the activity will be detrimental to the amenity of the area.

**Penalty: 10 Penalty Units**

## 5.7 Advertising Signs

- (a) Unless in accordance with a permit, or specifically authorised under the Municipal Planning Scheme or a planning permit issued in accordance with the Municipal Planning Scheme, a Person must not:
  - (i) exhibit, place out for exhibition, or allow to be exhibited or placed out for exhibition, any Advertising Sign on any Road or Council Land;
  - (ii) hang, place or affix any Advertising Sign on or between any part of a building, plant, pole, post or other structure or allow that to occur; or
  - (iii) exhibit, or authorise any person to exhibit, a real estate advertising sign, directional sign or pointer sign on any Road, Council Land or in any Public Place or affixed to any structure that abuts a Road, Council Land or Public Place.

**Explanatory Note:** The reference to a "Road" includes the pavement or footpath.

**Penalty: 10 Penalty Units**

- (b) Clause 5.7 does not apply to signs used to advertise 'garage sales', provided that the sign:
  - (i) does not impact on safe pedestrian and/or Vehicle movements and methods of protecting pedestrians and Vehicles;
  - (ii) is not affixed to a tree;

- (iii) is removed the day after that the garage sale is conducted; and
- (iv) is no larger than 1.2 metres high by 0.75 metres wide.

### **5.8 Merchandise on Roads**

A Person must not, without a permit:

- (a) exhibit or place out for exhibition; or
- (b) allow to be exhibited or placed out for exhibition

any Merchandise on any Road, Council Land or in any Public Place.

**Penalty: 10 Penalty Units**

**Explanatory Note:** The reference to a "Road" includes the pavement or footpath.

### **5.9 Furniture on Road**

An owner or Occupier of Premises must not, without a permit:

- (a) provide for public use; or
- (b) allow to be provided for public use

any seats, tables, chairs, umbrellas, heaters, screens, barricades, planter boxes or pot plants or any other furniture on the Road adjacent to or near the Premises.

**Penalty: 10 Penalty Units**

**Explanatory Note:** The reference to a "Road" includes the pavement or footpath.

### **5.10 Impounding of Goods**

An Authorised Officer may remove and impound any goods that are placed on or in any Council Land, Public Place or Road in contravention of this Part.

### **5.11 Exemptions from this Part**

- (a) Council may, by resolution, exempt any person or class of person or any particular selling activity from the need for a permit.
- (b) An exemption from the need for a permit under this Local Law will not affect the need for compliance with any other law relating to the sale of goods.

### **5.12 Regulation of Trading Sites**

- (a) If Council has entered into an agreement by way of lease, licence, permit or otherwise) in relation to trading from a particular site, no Person, other than the Person with whom the Council has the agreement, may trade from that site whether or not that Person has a permit.

**Penalty: 10 penalty units**

- (b) A permit issued to a Person does not authorise that Person to sell goods or services at a place if the place is within 400 metres of any retail premises selling goods or services of the same type or nature as that being sold by the permit holder.

### **5.13 Fees and Charges**

In addition to any other power which it has, Council may, by resolution, determine a fee, charge, fare or rent in relation to the selling or offering for sale of any goods or services from a property or Public Place adjacent to a Road or to any Person who is on that Road or in that Public Place.

### **5.14 Municipal Planning Scheme**

To the extent necessary, this Part gives effect to the exemption set out in clause 62 of the Municipal Planning Scheme.



## **Part 6 - Activities in Public Places**

### **6.1 Purpose**

The purpose of this Part is to:

- (a) manage and facilitate the responsible use of Roads, Council Land and Public Places for public use and entertainment;
- (b) increase the attractiveness and comfort of these places by controlling the soliciting of gifts and money selling and other behaviour in Public Places; and
- (c) protect the safety and amenity of Public Places for the proper enjoyment of residents of the municipality.

### **6.2 Street Collections**

A Person must not in or on a Road, Council Land or Public Place:

- (a) solicit or collect a gift of money or subscription; or
- (b) cause or authorise another person to do so;

in such a manner that:

- (i) the safety of any person or the passage of Vehicles will be affected;
- (ii) interferes with the use or enjoyment of that Public Place or the personal comfort of another Person in or on that Road, Council Land or Public Place; or
- (iii) the activity will be detrimental to the amenity of the area.

**Penalty: 10 Penalty Units**

### **6.3 Processions, Street Festivals and Street Parties**

- (a) A Person must not, without a permit, in or on any Road, Council Land or Public Place hold or allow to be held or participate in a:

- (i) Street Party;
- (ii) Street Festival;
- (iii) street market;
- (iv) event; or
- (v) Procession.

**Penalty: 10 Penalty Units**

- (b) A Person must not in or on any Road, Council land or Public Place hold or allow to be held or participate in a:

- (i) rally; or
- (ii) other public gathering

in such a manner that causes or is likely to cause:

- a detrimental effect on abutting residents and traders;
- hazards to people or damage to adjacent properties, or Council Land and assets; or
- disruption to traffic and other Road users.

**Penalty: 10 Penalty Units**

#### **6.4 Filming**

A Person must not, without a permit, in or on any Road, Council Land or Public Place conduct or cause to be conducted any filming where the film is for a commercial purpose.

**Penalty: 5 Penalty Units**

#### **6.5 Matters to be taken into consideration in issuing a Permit**

In determining whether to grant a permit under this Part, an Authorised Officer may take into consideration the following matters:

- (a) any potential detrimental effect on abutting residents and traders;
- (b) the potential for hazards to people or damage to adjacent properties, or Council Land and assets;
- (c) disruption to traffic and other road users;
- (d) the requirements of any Council policy, procedure, guideline or Code of Practice; and
- (e) any other matters deemed necessary.

#### **6.6 Advertising and Bill Posting**

- (a) A Person must not write, deface, or place or affix any letter, figure, device, poster, sign, or advertisement on any building, fence, pole, post or other property or any tree under the control of, or vested in, Council.

**Penalty: 5 Penalty Units**

- (b) Where any sign or other advertising material has been displayed or erected contrary to this Local Law then the Person displaying or erecting the sign or other advertising material must, on demand by an Authorised Officer, remove that sign or other advertising material.

**Penalty: 10 Penalty Units**

- (c) Any Authorised Officer may remove and dispose of any letter, figure, device, poster, sign or advertisement unlawfully written, painted, printed, stencilled, placed or affixed on any Road, Council Land or Public Place without thereby entitling any Person to compensation or rendering any person immune from prosecution.

#### **6.7 Electoral Advertising**

- (a) A Person must not in or on any Road, Council Land or Public Place place out any:

- (i) sign;
- (ii) banner;
- (iii) advertising material

in connection with a Commonwealth, State or local government election.

**Penalty: 10 Penalty Units**

- (b) Nothing in clause 6.7(a) applies to any authorised sign which is placed out on the day of the election for the purpose of advising of the location of a polling place.

## **Part 7 - Obstructions on Roads, Council Land and public places**

### **7.1 Purpose**

The purpose of this Part is to enhance the appearance and ensure the accessibility of streets, pavements and Public Places and to regulate and control:

- (a) the exhibition of Advertising Signs on Vehicles left standing on Roads;
- (b) the protrusion of verandahs and awnings into the airspace above pavements; and
- (c) the deposit of specified containers and bins on Roads, Council Land and in other Public Places;

and to provide an economic benefit from the use of Council Land and Public Places by commercial premises.

### **7.2 Vehicular Advertising**

An owner or Occupier of Premises must not, without a permit, leave standing on any Road or Council Land a Motor Vehicle:

- (a) on which there is placed any Merchandise referable to the Premises; or
- (b) to which there is fitted or otherwise attached an Advertising Sign which advertises the Premises or Merchandise.

**Penalty: 5 Penalty Units**

### **7.3 Protruding Materials**

(a) An owner or Occupier of Premises must not, without a permit, attach, or allow to be attached, to any verandah or awning which forms part of the Premises:

- (i) an Advertising Sign; or
- (ii) Merchandise.

**Penalty: 5 Penalty Units**

(b) An owner or Occupier of Premises must not attach, or allow to be attached, to any verandah or awning which forms part of the Premises a banner, flag, bunting or like decoration in such a manner that:

- (i) impacts on safe pedestrian and/or Vehicle movements and methods of protecting pedestrians and Vehicles;
- (ii) impacts on the amenity of the area; or
- (iii) contravenes any relevant provision in legislation, the Municipal Planning Scheme or a Code of Practice, relevant Council policy or other guidelines.

**Penalty: 5 Penalty Units**

### **7.4 Matters to be considered before a permit is issued**

When considering the issue of a permit under this Part, all or any of the following may be taken into account:

- (a) the size, construction and nature of the obstruction;
- (b) the method of placing or fixing the obstruction, sign, furniture, Merchandise, barricade, screen, planter box or object;
- (c) the location of the obstruction or object having regard to the width of the pavement;

- (d) the impact on safe pedestrian and/or Vehicle movements and methods of protecting pedestrians and Vehicles;
- (e) the impact on the amenity of the area;
- (f) the appropriateness of the obstruction having regard to the streetscape;
- (g) any development or improvement strategy or plan adopted or proposed to be adopted for a commercial or industrial area;
- (h) whether an indemnity, guarantee, or bond has been provided to Council;
- (i) any relevant provision in legislation, the Municipal Planning Scheme or a Code of Practice, relevant Council policy or other guidelines; and
- (j) any other relevant matter.

#### **7.5 Bulk Containers left on Roads and Other Locations**

A Person must not, without a permit, place, or authorise to be placed, in or on any Road, Council Land or Public Place a Bulk Rubbish Container or shipping container.

**Penalty: 5 Penalty Units**

#### **7.6 Clothing Bins**

A Person must not, without a permit, place a Charity Clothing Bin on a Road or Council Land or in any Public Place.

**Penalty: 5 Penalty Units**

## **Part 8 - Shopping Trolleys**

### **8.1 Purpose**

The purpose of this Part is to:

- (a) regulate and control the leaving of Shopping Trolleys on Roads, Council Land and Public Places; and
- (b) empower an Authorised Officer to impound Shopping Trolleys left on a Road or other Council Land.

### **8.2 Shopping Trolleys**

- (a) A Person who operates a supermarket or similar store where Shopping Trolleys are made available for use, or are permitted to be used, must provide an area specifically designated for the storage of Shopping Trolleys.

**Penalty: 10 Penalty Units**

- (b) A Person who operates a supermarket or similar store where Shopping Trolleys are made available for use, or are permitted to be used, must ensure that a Shopping Trolley from that supermarket or similar store is not left on any Road or other Public Place.

**Penalty: 10 Penalty Units**

- (c) A Person must not leave, cause to be left, or authorise another person to leave, a Shopping Trolley on any Road or Council Land or in any other Public Place.

**Penalty: 10 Penalty Units**

### **8.3 Impoundment and Disposal of Shopping Trolleys**

- (a) An Authorised Officer, or a Person engaged by Council, may seize and impound any Shopping Trolley which is being made available for use, or which is being used, in contravention of this Local Law.
- (b) As soon as practicable after the impoundment of any Shopping Trolley an Authorised Officer must, if the identity of the Person who owns the Shopping Trolley can be determined, serve a Notice of Impoundment on that Person.
- (c) Any impounded Shopping Trolley must be returned to the owner of that Shopping Trolley after:
  - (i) payment of any fees, as determined from time to time by Council, have been paid in full; and
  - (ii) evidence of ownership of the shopping trolley is provided to the satisfaction of the Authorised Officer.
- (d) Any impounded Shopping Trolley not claimed by the owner within the time specified on the Notice of Impoundment or within 14 days of the impounding in a case where the owner of the Shopping Trolley cannot be ascertained, may be disposed of by an Authorised Officer.

## **Part 9 - Behaviour in a Public Place**

### **9.1 Purpose**

The purpose of this Part is to:

- (a) protect the amenity of Public Places for all citizens by controlling behaviour in Public Places; and
- (b) prohibit Persons from causing damage to Public Places or acting in a socially unacceptable manner.

### **9.2 Prohibited activities in Public Places**

- (a) A Person must not in, on or within the hearing or sight of a Public Place:
  - (i) cause or commit any nuisance;
  - (ii) adversely affect the amenity of that Public Place;
  - (iii) interfere with the use or enjoyment of that Public Place or the personal comfort of another Person in or on that Public Place;
  - (iv) annoy, hinder, intimidate or obstruct any other Person in or on that Public Place;
  - (v) defecate or urinate except in a toilet or urinal (as the case may be) in a public convenience; or
  - (vi) commit an indecent or offensive act; or
  - (vii) use any threatening, abusive or insulting words.

#### **Penalty: 10 Penalty Units**

- (b) A Person must not in or on a Public Place:
  - (i) destroy, damage, alter, mark, deface or remove any property or thing;
  - (ii) use any life saving or fire protection device unless during an emergency or during approved instruction;
  - (iii) destroy, remove, deface, interfere or tamper with or otherwise damage any street furniture;
  - (iv) walk on or over any plant bed, plant box or garden plot except with the consent of the Person in whom the plant bed, plant box or garden plot is vested;
  - (v) cause risk of personal injury or damage to property by climbing or walking on or over, sitting on or sliding down any structure, building, fixture, free standing object, appliance or equipment (other than play equipment or recreation and fitness equipment installed by the Council) except with the consent of the Person in whom the structure, building, free standing fixture, object, appliance or equipment is vested;
  - (vi) if he or she is not a player, official or competitor of any Competitive Game or Sport, as permitted by Council, enter or remain on the playing arena on or in any Public Place during the progress of the Competitive Game or Sport; or
  - (vii) after having been directed to leave by an Authorised Officer, enter or remain in any area, place, building or structure that is not open to the public.

#### **Penalty: 10 Penalty Units**

- (c) A Person must not, without a permit, occupy or cause or allow another person to occupy all or part of a Public Place that causes it to be inaccessible to other people.

**Penalty: 10 penalty units**

### **9.3 Camping in Public Places**

A Person must not, without a permit, camp in or on any Public Place in a Vehicle, tent or Caravan or in any temporary or provisional form of accommodation.

**Penalty: 5 Penalty Units**

### **9.4 Protection of Trees**

A Person must not, without a permit, in or on any Road, Council Land or Public Place destroy, damage, remove, lop or otherwise interfere with a tree or allow any person to destroy, damage, remove, lop or otherwise interfere with a tree.

**Penalty: 5 Penalty Units**

### **9.5 Toy Vehicles**

A Person must not:

- (a) use or allow to be used a Toy Vehicle so as to endanger, intimidate or unduly obstruct or hinder any other Person or Vehicle lawfully using or intending to use the same area; or
- (b) ride a Toy Vehicle in an area prescribed by Council in accordance with clause 9.6 or in breach of a prescription made by Council under sub-clause 9.6(a) or (b).

**Penalty: 5 Penalty Units**

### **9.6 Prescriptions**

- (a) Council may prescribe a Public Place (other than a Road or Road Related Area) for the purposes of clause 9.5 where it considers that the riding of Toy Vehicles is reasonably likely to cause physical damage to infrastructure located within the area to be prescribed.
- (b) Council may prescribe a Public Place (other than a Road or road related area) where the riding of a Toy Vehicle is restricted at specified times and on specified conditions where it considers that the riding of Toy Vehicles is reasonably likely to interfere with the use and enjoyment of the locality by pedestrians and other members of the public.
- (c) For the purposes of sub-clause 9.6(a) and (b), the terms "Road" and "Road Related Area" have the same meaning as in the **Road Safety Act 1986**.

### **9.7 Animals**

- (a) Whenever an animal is in or on a Road or in a Public Place, the Owner of the animal must have in his or her possession means for the effective collection and removal of any excrement that may be deposited by the animal.

**Penalty: 5 Penalty Units**

- (b) The Owner of an animal must immediately collect and remove all excrement deposited by the animal in or on a Road or Public Place.

**Penalty: 5 Penalty Units**

## **9.8 Graffiti**

- (a) Unless in accordance with a permit or except with the prior consent of the owner or Occupier of Premises, a Person must not:
- (i) write on;
  - (ii) paint, stencil, graffiti or draw any inscription, figure or mark on

the exterior of any Premises, for the purpose of affecting the visual amenity of the Premises or the area in which it is located.

### **Penalty: 5 Penalty Units**

- (b) Any Person who allows, authorises or engages another Person to write, paint, stencil, graffiti or draw any inscription, figure or mark without a permit on any Road, Council Land, Public Place or Municipal Building is guilty of an offence.

### **Penalty: 10 Penalty Units**

- (c) An Authorised Officer may serve a Notice to Comply on any Person or Persons who has breached sub-clause 9.8(a) or (b) to remove or direct to be removed and disposed of any writing, painting, stencilling, graffiti or any other inscription figure or mark placed or affixed otherwise than in accordance with the relevant sub-clause.
- (d) Where a Notice to Comply has been issued under clause 9.8(c), Council or an Authorised Officer may remove or authorise the removal of the writing, painting, stencil, graffiti or any inscription, figure or mark.
- (e) Any costs payable under clause 9.8(d) will be a debt due and payable to Council. This debt will be in addition to any penalty issued under this Local Law.

## **9.9 Entry without paying entry fee**

A Person must not enter any Public Place or Municipal Building in respect of which Council has prescribed an entry fee unless the entry fee has been paid to an Authorised Officer, Manager or authorised Council representative or the Person enters with the written consent of Council.

### **Penalty: 5 Penalty Units**

## **9.10 Other Activities**

A Person must not on or in any Council Land or Public Place:

- (a) ride, drive or otherwise use any animal, Recreation Vehicle or Toy Vehicle; or
- (b) operate or fly a model aeroplane

in such a manner as to be a danger to the safety of any Person or to the condition of any property, or to interfere with the reasonable use and enjoyment of the Council Land or Public Place or any part thereof by any other Person.

### **Penalty: 10 Penalty Units**

## **9.11 Prescribed Activities**

- (a) A Person must not do any of the following:
- (i) undertake a prescribed activity or works, or place a prescribed obstruction or object, contrary to any prescription made by Council;
  - (ii) drive a vehicle into, or leave a Vehicle on, a Car park or Reserve contrary to any prescription made by Council.

### **Penalty: 10 Penalty Units**



- (b) In addition to the matters contained in clause 9.11(a), Council may prescribe all or part of any Public Place to be a place where any of the following are prohibited or regulated:
  - (i) undertaking any activity or works, or placing any obstruction or object as prescribed by Council in or on a Public Place; or
  - (ii) vehicular access to, and closure of, Car parks and Reserves.
- (c) If a Person contravenes sub-clause 9.11(a) an Authorised Officer may do any of the following:
  - (i) direct the person to cease the activity that constitutes the contravention;
  - (ii) direct the person to leave the Public Place; or
  - (iii) confiscate any item associated with the contravention.
- (d) A Person must comply with a direction given under clause 9.11(c).

**Penalty: 20 Penalty Units**

- (e) If Council prescribes a Car park for the purposes of clause 9.11(b), Council may:
  - (i) cause the Car park to be secured in accordance with the prescription; and
  - (ii) prescribe a release fee in relation to any vehicle confined as a consequence of the securing of the Car park.
- (f) The owner of a Vehicle in relation to which a release fee is applicable under clause 9.11(e)(ii) must pay the fee to Council within the time prescribed and until it is paid it becomes a debt due to Council from the driver of the Vehicle (and recoverable by Council as a debt due summarily) and, until paid, bears interest at the penalty interest rate prescribed under the **Penalty Interest Rates Act 1983** from time to time.

**Penalty: 5 Penalty Units**

## Part 10 - Consumption of Liquor

### 10.1 Purpose

The purpose of this Part is to control the consumption of liquor in Public Places and other places within certain areas of the municipality and during certain periods of the year.

### 10.2 Consumption and possession of Liquor is prohibited in certain circumstances

- (a) A Person must not, in or on a Road, Council Land or Public Place, or within a Motor Vehicle which is in or on a Public Place:
- (i) consume any liquor; or
  - (ii) have in his or her possession or control, any liquor other than liquor in a sealed container;

in that part of the Municipal District prescribed by Council pursuant to this Local Law.

#### Penalty: 20 Penalty Units

- (b) Clause 10.2(a) does not apply to a Person:
- (i) taking part in a festival or event in respect of which the Council has granted a permit for persons to consume liquor or to have in their possession or control any liquor other than liquor in a sealed container;
  - (ii) within authorised premises or licensed premises under the **Liquor Control Reform Act 1998** or any subsequent legislation relating to the serving and consumption of liquor; or
  - (iii) who has been granted a permit to take liquor into an area prescribed by Council.
- (c) Where an Authorised Officer believes on reasonable grounds that a Person is contravening or has contravened clause 10.2(a), the Authorised Officer may direct the Person to seal any container or dispose of the contents of any unsealed container.
- (d) A Person who fails to obey a direction of an Authorised Officer under clause 10.2(c) is guilty of an offence.

#### Penalty: 10 Penalty Units

- (e) Council may prescribe certain parts of the Municipal District where the consumption of liquor or the possession of liquor is prohibited.
- (f) No prescription under this clause 10.2 will have any force or effect unless signs advising of the prohibitions are erected in the relevant area of the Municipal District.

## **Part 11 - Noise Control**

### **11.1 Purpose**

The purpose of this Part is to enable an Authorised Officer to control noise that is considered objectionable, or constitutes a nuisance to any other Person or interferes with the peaceful enjoyment of any Residential premises to the extent that it may be injurious to health.

### **11.2 Objectionable Noise**

- (a) A Person must not make, cause or permit to be made any sound or noise which is objectionable or annoying or which constitutes a nuisance to any other Person on any adjoining Road or any other Premises.

#### **Penalty: 5 Penalty Units**

- (b) Upon receipt of a written complaint signed by a person or persons alleging, in relation to a particular Premises, that there is a habitual or regular emission of objectionable noise and/or an Authorised Officer is satisfied that a prima facie case exists for the suppression of such objectionable noise or nuisance, the Authorised Officer may give to the Occupier or one of the Occupiers of the Premises a notice stating that complaints have been made in relation to the emission of objectionable noise and that the noise is constituting a nuisance to nearby Premises. The notice may call upon the Occupier(s) of the Premises to cause the noise creating a nuisance to be abated or cease to be emitted or reduced to an acceptable level as the case may be.
- (c) If a Person on whom a notice is served pursuant to sub-clause 11.2(b) fails to comply with the requirement of that notice within the time specified in that notice, he or she is guilty of an offence.

#### **Penalty: 5 Penalty Units**

### **11.3 Burglar Alarms**

- (a) An Authorised Officer may direct an owner or Occupier of Premises on which a faulty burglar alarm exists to disconnect the burglar alarm until the fault has been rectified.
- (b) An owner or Occupier of Premises to whom a direction is given under clause 11.3(a) must comply with that direction.

#### **Penalty: 5 Penalty Units**

- (c) A Person must not allow an audible burglar alarm to be located on any residential, industrial, commercial, trade premises or fitted to any Vehicle unless the alarm, once activated, is automatically switched off within ten (10) minutes of being activated, and cannot reactivate until it has been reset.

#### **Penalty: 5 Penalty Units**

### **11.4 Amplified Sound Equipment**

- (a) A Person must not use or allow or suffer to be used any sound amplifying equipment or the like from a Vehicle on a Road or Council Land or in a Public Place to a level that the noise is objectionable, constitutes a nuisance to any other Person or interferes with the reasonable enjoyment of the nearby area by others to the extent that it may be injurious to health.

#### **Penalty: 5 Penalty Units**

- (b) The owner or Occupier of industrial, commercial or trade premises must ensure that any external amplified telephone and door type bells or public

address system from such industrial, commercial or trade premises are not audible within a habitable room of a Residential premises between the hours of 6.00pm and 9.00am.

**Penalty: 5 Penalty Units**

#### **11.5 Policies and Procedures**

For the purpose of this Part, Council or an Authorised Officer must have regard to the Policies, Regulations, Standards and Guidelines issued from time to time by the Environment Protection Authority.

## **Part 12 - Scareguns**

### **12.1 Purpose**

The purpose of this Part is to regulate and control the use of Scareguns within the Municipal District in a manner that prevents their use being detrimental to the environment or to the quality of life of Persons residing in the Municipal District.

### **12.2 Use of Scareguns**

A Person must not use or allow or authorise others to use a Scaregun unless all of the following are satisfied:

- (a) the Scaregun is only used for the bona fide purpose of scaring birds from crops during a recognised crop growing period;
- (b) the Scaregun is position on Farm land;
- (c) the distance in a straight line between the Scaregun and a Residential premises on another property is 300 metres or greater, unless a permit is issued specifying a lesser distance;
- (d) the distance in a straight line between the Scaregun and another Scaregun in use (whether located on the same property or on another property) is 150 metres or greater;
- (e) the Scaregun is only used between 7.00am and sunset on any day;
- (f) the Scaregun is not used in excess of twelve hours in any one day;
- (g) the maximum noise level of the Scaregun when measured immediately in front of a Residential premises on Another property is 100dB LIN peak or less;
- (h) the Scaregun does not emit more than the number or exceed the regularity of blasts in any one day period than the number set out in clause 12.3(a); and
- (i) the number of Scareguns in use at any one time on the property does not exceed the number set out in clause 12.4.

**Penalty: First offence – 2 penalty units**

**Second or subsequent offence – 10 penalty units**

### **12.3 Frequency of Blasts**

- (a) For the purposes of clause 12.2(h) the number and regularity of blasts in any one day period is as follows:
  - (i) in the case of a single blast Scaregun, 70 blasts, with the time between blasts to be no less than six minutes;
  - (ii) in the case of a multiple blast Scaregun, 70 blasts, with:
    - the time between blast sequences being no less than six minutes; and
    - the time between the first blast of a sequence and the last blast of a sequence being no more than one minute.
- (b) For the purposes of clause 12.2(h) each blast in a sequence from a multiple blast Scaregun must be counted as one blast.

**12.4** For the purposes of clause 12.2(i) the number of Scareguns in use at any one time on the property is as follows:

- (a) where the area under crop is four hectares or less – one Scaregun;

- (b) where the area under crop is more than four hectares and less than ten hectares – two Scareguns;
- (c) where the area under crop is ten hectares or more – three Scareguns.

**12.5** A permit may be granted to allow the use of more than three Scareguns where the area under crop is twenty hectares or more, but so as not to allow more than two Scareguns for each ten hectares of crop.

## **Part 13 - Protection of Council Roads and Land**

### **13.1 Works on Roads**

The purpose of this Part is to minimise the impact of works on Roads on the amenity of the municipality and its residents by ensuring that obstructions do not interfere with the public's reasonable use of Roads.

### **13.2 Works on Roads require a permit**

- (a) A Person must not, without a permit:
- (i) erect a hoarding or overhead protective awning on a Road;
  - (ii) construct, remove or alter a temporary or permanent Vehicle Crossing;
  - (iii) occupy or fence off part of a Road;
  - (iv) use a mobile crane, travel tower, lift or tackle on or above a Road;
  - (v) make a hole in, excavate, damage or remove part of any Road; or
  - (vi) install, alter or remove:
    - a pavement light;
    - any object including a sign, tactile indicator or planter box on in or over a Road; or
    - a fence, gate or retaining wall on or in a Road;
  - (vii) interfere with or damage any Council asset, watercourse, ditch, creek, gutter, drain, tunnel, bridge, levee, culvert or fence; or
  - (viii) destroy, damage, interfere with, deposit any material or tap into a drain owned by Council.

#### **Penalty: 20 Penalty Units**

- (b) A Person who breaches clause 13.2(a) must repair, replace or reconstruct the Road or drain within 30 days of being requested to do so by an Authorised Officer.

#### **Penalty: 20 Penalty Units**

### **13.3 Granting a Permit**

In determining whether to grant a permit under clause 13.2, Council or an Authorised Officer must take into account:

- (a) the nature and duration of the works;
- (b) the likely hazard that the works may constitute to users of the Road;
- (c) the impact of the works on the amenity of the adjoining area;
- (d) whether an indemnity/guarantee in the required form has been provided to Council; and
- (e) any other matter relevant to the circumstances of the applicant.

### **13.4 Payment of Bond**

The amount of any bond required under a permit must be proportionate to the likely cost of repairing any damage and must be refunded on completion of the work or may be retained by Council to offset the costs of repairing any damage.

### **13.5 Exemption from need for a permit**

- (a) A permit is not required by a Service Authority or agent or contractor of a Service Authority in respect of work that is carried out for the purposes of the Service Authority.
- (b) Notwithstanding clause 13.5(a) the Service Authority or agent or contractor of the Service Authority must notify Council of the proposed works before undertaking those works (unless the Service Authority or agent or contractor of the Service Authority is exempt from giving Council notice in writing under the provisions of any Act or Regulations).

### **13.6 Reinstatement works**

- (a) Where pursuant to a permit issued under this Part:
  - (i) works are carried out on a Road or other Council Land, or
  - (ii) works are carried out in contravention of this Partand in either case the Road or Council Land is not reinstated to the satisfaction of an Authorised Officer, the Authorised Officer may:
  - (iii) issue a Notice to Comply on the Person responsible for the works; or
  - (iv) where a guarantee or bond has been required as a condition of a permit issued under this Local Law, apply any monies held by Council as a guarantee or bond to the cost of reinstating the Road or Council Land.
- (b) Where works are carried out by or on behalf of a Service Authority and the Road or Council Land has not been reinstated to the satisfaction of an Authorised Officer, the Service Authority must pay to Council the actual cost of the reinstatement at an agreed rate or, in default of agreement, at the rate determined by the Chief Executive Officer

### **13.7 Power to impound**

An Authorised Officer may impound any item or thing found placed or left in contravention of this Part.

### **13.8 Vehicle Crossings**

- (a) A Person must not, without a permit, allow any Vehicle or Recreational Vehicle to enter or leave any land except by a Council approved Vehicle Crossing.

#### **Penalty: 20 Penalty Units**

- (b) An owner or Occupier of Premises must ensure that each point of vehicular access from a Road to the land has an appropriately constructed Vehicle Crossing approved by Council.

#### **Penalty: 20 Penalty Units**

- (c) A Person must not, without a permit, construct, install, alter, remove or allow to be constructed, installed, altered or removed, a Vehicle Crossing, whether such crossing be permanent or temporary.

#### **Penalty: 20 Penalty Units**

### **13.9 Granting a Permit**

In determining whether to grant a permit under clause 13.8, Council or an Authorised Officer must take into account:

- (a) whether there is an existing Vehicle Crossing;



- (b) any adverse environmental impacts;
- (c) any detrimental effect to the provision of on-street Vehicle parking;
- (d) any relevant provision in any Council policy, code of practice or guideline; and
- (e) any other matter relevant to the application.

**Explanatory Note:** only one Vehicle Crossing will be permitted per property unless exceptional circumstances exist that demonstrates the requirement for an additional Vehicle Crossing.

### **13.10 Council may require that a Vehicle Crossing be installed, repaired or removed**

An Authorised Officer may serve a Notice to Comply on the owner or Occupier of Premises requiring:

- (a) the construction of a Vehicle Crossing if the Premises does not have a satisfactory Vehicle Crossing;
- (b) the repair of any Vehicle Crossing if, in the opinion of the Authorised Officer, the existing Vehicle Crossing is in such a state of disrepair that it constitutes a danger; or
- (c) the removal of any Vehicle Crossing and the reinstatement of the Pavement, kerb, channel, drain, culvert, and naturestrip if, in the opinion of the Authorised Officer, the Vehicle Crossing is no longer required.

### **13.11 Failure to Comply**

- (a) Where a Notice to Comply has been issued under this clause and the owner or Occupier of Premises fails to comply with such notice within 30 days of issue, Council or an Authorised Officer may install, repair or remove the Vehicle Crossing, or cause the Vehicle Crossing to be installed, repaired or removed and recover the costs of doing so from that person.
- (b) Any costs payable under this clause will be a debt due and payable to Council.

### **13.12 Nature Strip Landscaping**

A Person must not, unless in compliance with any policy, procedure or guideline relating to the landscaping of nature strips adopted by Council:

- (a) remove any grass;
- (b) plant noxious or environmental weeds or any tree, shrub or plant;
- (c) construct any hard landscaping; or
- (d) place any structure to prevent access to another Person on a nature strip.

**Penalty: 10 Penalty Units**

### **13.13 Rubbish Dumping**

A Person must not deposit any material or thing in or on a Road, Council Land or Public Place other than:

- (a) in a Council litter bin or approved receptacle;
- (b) in a Bulk Rubbish Container that has been placed in accordance with a permit issued under clause 7.5; or

- (c) permitted by Council as part of a prescribed hard or green waste collection scheme.

**Penalty: 10 Penalty Units**

**13.14 Alienation of Council Land**

- (a) Unless in accordance with a permit, or licence entered into with Council, a Person must not in or on a Road, Council Land or Public Place erect any:
  - (i) structure;
  - (ii) encroachment;
  - (iii) fencing;
  - (iv) retaining walls;
  - (v) temporary shelters; or
  - (vi) temporary or permanent Vehicle Crossingwhich alienates the Road, Council Land or Public Place for their own use.

**Penalty: 10 Penalty Units**

- (b) Council or an Authorised Officer may serve a Notice to Comply on the Person or Persons responsible to remove any such structure, encroachment, fencing, retaining walls, temporary shelters or temporary or permanent Vehicle Crossings alienating the Road, Council Land or Public Place and return it to its original condition.
- (c) Where a Notice to Comply has been issued under clause 13.14(b) and the Person or Persons responsible fail to comply with such Notice to Comply within 30 days of issue, Council or an Authorised Officer may remove the structure, encroachment, fencing, retaining walls, temporary shelters or temporary or permanent Vehicle Crossings and return the Road, Council Land or public place to its original condition.
- (d) Any costs payable under clause 13.14(c) will be a debt due and payable to Council. This debt will be in addition to any penalty issued under this Local Law.

**13.15 Trees or plants hindering or causing damage to Roads, Council Land or assets**

- (a) An owner or Occupier of Premises must not allow trees or plants on the Premises, including root structure, to cause damage to, or interference with, any Road, Council Land or assets.

**Penalty: 5 Penalty Units**

- (b) Where Council or an Authorised Officer is of the opinion that any tree or plant, including root structure, causes damage to, or interferes, or hinders, or is likely to cause damage to, interfere or hinder, the operation of any drain, pit or footpath vested in or under Council's management or control, an Authorised Officer may serve a Notice to Comply on the owner or Occupier of the Premises requiring removal of the offending tree or plant, or such other action that Council or an Authorised Officer may require.
- (c) Any Person who fails to comply with a Notice to Comply served under clause 13.15(b) will, in addition to any penalty under this Local Law, be liable for all subsequent repair and maintenance costs and will, if not paid, bear interest at the penalty interest rate prescribed under the **Penalty Interest Rates Act 1983** from time to time.

### **13.16 Gates and openings to public places**

Except on a boundary that adjoins a Road, a Person must not, without a permit, construct, make or allow to be constructed or made any gate or opening in any fence on the boundary of a Public Place.

**Penalty: 5 Penalty Units**

### **13.17 Drainage Tappings**

(a) A Person must not, without a permit, tap into or interfere with, or authorise or allow any other Person to tap into or interfere with, any drain under the control of Council.

**Penalty: 5 Penalty Units**

(b) Clause 13.17(a) does not apply where Council has certified a plan of subdivision or given its approval for the drain to be tapped under any other legislation administered by it.

### **13.18 Stormwater Pits**

(a) A Person must not, in any way:

- (i) interfere with or hinder access to any stormwater pit; or
- (ii) place any structure, material, dirt or other matter on a pit lid so as to conceal its location and accessibility.

**Penalty: 5 Penalty Units**

(b) Council or an Authorised Officer may serve a Notice to Comply on the Person or Persons responsible for placing any structure, material, dirt or other matter on the pit lid to remove the structure, material, dirt or other matter and return the pit lid to its original condition.

(c) Where a Notice to Comply has been issued under clause 13.18(b) and the Person or Persons responsible fail to comply with such Notice to Comply within 30 days of issue, Council or an Authorised Officer may remove the structure, material, dirt or other matter and return the pit to its original condition.

(d) Any costs payable under clause 13.18(c) will be a debt due and payable to Council. This debt will be in addition to any penalty issued under this Local Law.

### **13.19 Interference with a Water Course**

A Person must not, without a permit, destroy, damage or interfere with any watercourse, wetland, ditch, creek, gutter, tunnel, bridge, levy or culvert which is vested in or under the management or control of Council.

**Penalty: 5 Penalty Units**

## **Part 14 - Private Premises**

### **14.1 Purpose**

The purpose of this Part is to provide for all of the following:

- (a) protection of the amenity of the Municipal District;
- (b) regulation and control of activities on, and uses of, Premises;
- (c) maintenance of the safety and condition of Premises;
- (d) regulation of the use of Vehicles on, or in the vicinity of, Premises; and
- (e) the imposition of relevant obligations on:
  - (i) owners and Occupiers of Residential premises; and
  - (ii) owners and Occupiers of commercial and industrial premises; and
  - (iii) other people.

### **14.2 Camping on private property**

- (a) An Occupier of Premises must not, without a permit, camp, or allow or suffer any other Person to camp, on the Premises:
  - (i) in a manner that causes a nuisance;
  - (ii) for any more than four (4) consecutive weeks; or
  - (iii) for any more than a total of three (3) months in any calendar year.

#### **Penalty: 10 Penalty Units**

- (b) The following will be taken into account in deciding whether to issue a permit under clause 14.2(a):
  - (i) the location of the Premises;
  - (ii) the likely impact on the amenity of the area;
  - (iii) the method of disposing of waste;
  - (iv) the location or proposed location of the Vehicle, boat, tent or portable or other structure in relation to surrounding dwellings;
  - (v) the adequacy of the Vehicle, boat, tent or portable or other structure for habitation;
  - (vi) the adequacy of facilities for cooking, cleaning and personal hygiene;
  - (vii) any relevant Act, regulation or policy;
  - (viii) the Municipal Planning Scheme and any relevant Council policy;
  - (ix) the likelihood of causing a nuisance; and
  - (x) any other relevant matter.

### **14.3 Caravans**

- (a) An owner or Occupier of Premises located in a Residential area must not, without a permit, place or cause or permit to be placed more than one Caravan on that land.

#### **Penalty: 10 Penalty Units**

- (b) A Person must not, without a permit, live in a Caravan for longer than three (3) months in any continuous 12 month period.

**Penalty: 10 Penalty Units**

#### **14.4 Recreation vehicles**

A Person must not use or allow to be used a Motorised Recreational Vehicle on any Private Land or Council Land in a manner that is likely to adversely affect the comfort, convenience, health or cause a nuisance or danger to any other Person.

**Penalty: 20 Penalty Units**

#### **14.5 Cigarette butt receptacles**

(a) Every Occupier of commercial and industrial Premises must take reasonable steps to ensure that Persons working at, visiting or associated with the commercial and industrial Premises do not deposit cigarette butts in a Public Place in the vicinity of the commercial and industrial Premises.

**Penalty: 10 Penalty Units**

(b) If an Authorised Officer serves a Notice to Comply in relation to a contravention of clause 14.5(a) the works required to correct the contravention may include any of the following:

- (i) provision of a suitable cigarette butt receptacle; or
- (ii) cleaning and maintenance of an existing cigarette butt receptacle and the surrounding area.

(c) In determining whether to issue a Notice to Comply on the Occupier in relation to a contravention of clause 14.5(a) the Authorised Officer must consider whether cigarette butt litter has, or is likely to have, come from Persons working at, visiting or associated with the commercial and industrial Premises.

#### **14.6 Overhanging or encroaching vegetation**

An owner and Occupier of Premises must not permit any tree or part of a tree, or plant or part of a plant, to remain in such manner as to:

- (a) be less than 3 metres above any Road abutting the Premises;
- (b) obstruct or impair the vision of the driver of any Vehicle travelling along any Road abutting the Premises;
- (c) create a hazard on any Road; or
- (d) or otherwise prejudice the safe and convenient use of any Road abutting the Premises.

**Penalty: 10 Penalty Units**

#### **14.7 Fences At Intersections**

(a) An owner or Occupier of any Premises situated at an intersection of two or more Road must not erect any fence on the Premises so as to obstruct the clear view:

- (i) by a driver, of any pedestrian, Vehicle, Traffic Control Item; or
- (ii) by a pedestrian, of any Vehicle or Traffic Control Item.

**Penalty: 10 Penalty Units**

(b) If an owner or Occupier of Premises has erected a fence in breach or apparent breach of clause 14.7(a) a Notice to Comply may require the owner or Occupier of the Premises to remove the fence or reconstruct the fence in the manner specified in the Notice to Comply.

## **14.8 Unsightly land**

- (a) An owner or Occupier of Premises must not cause, allow or suffer the Premises to be unsightly and detrimental to the amenity of the neighbourhood in which the Premises are located.

### **Penalty: 10 Penalty Units**

- (b) For the purposes of clause 14.8(a), circumstances in which Premises is unsightly and detrimental to the amenity of the neighbourhood in which the land is located include when the Premises has upon it any of the following:
- (i) unconstrained rubbish;
  - (ii) disused excavations;
  - (iii) excessive waste;
  - (iv) excessive vegetation, including undergrowth exceeding three hundred (300) mm in height;
  - (v) disused machinery or Vehicles;
  - (vi) a building that remains partially completed or partially demolished for a period of two hundred and forty (240) days or more; or
  - (vii) subject to clause 14.8(c), Graffiti that remains on a building or other structure on the land for more than seven (7) days.
- (c) Except where a permit is required under the Municipal Planning Scheme, an owner or Occupier of Premises may apply for a permit to allow Graffiti to remain on the land for more than seven (7) days.
- (d) When considering an application for a permit under clause 14.8(c), Council must consider all of the following:
- (i) whether the Graffiti is Graffiti art;
  - (ii) the location of the Premises;
  - (iii) the proximity to adjoining land;
  - (iv) the amenity of the area;
  - (v) the likely impact on the amenity of the area;
  - (vi) the likelihood of the Graffiti harassing or vilifying a person or class of persons;
  - (vii) any relevant Act, regulation or policy;
  - (viii) the Municipal Planning Scheme;
  - (ix) any relevant Council policy; and
  - (x) any other relevant matter.

## **14.9 Dilapidated buildings**

- (a) An owner or Occupier of Premises must not cause, allow or suffer a building located on the Premises to become dilapidated or further dilapidated.

### **Penalty: 20 Penalty Units**

- (b) For the purposes of clause 14.9(a), circumstances in which a building on Premises becomes dilapidated or further dilapidated include any of the following:
- (i) the exterior of any building is in a state of disrepair and has been damaged or defaced so as to:

- affect the visual amenity of the Premises; or
  - cause the building to be out of conformity with the general standard of appearance of other buildings in the vicinity of the Premises; and
- (ii) architectural features of the building are not properly maintained.

#### **14.10 Dangerous land**

- (a) An owner or Occupier of Premises must not cause, allow or suffer the Premises to be dangerous or likely to cause danger to life or property.

##### **Penalty: 20 Penalty Units**

- (b) For the purposes of clause 14.10(a), circumstances in which Premises are dangerous, or likely to cause danger to life or property, include when the Premises has upon it any of the following:
- (i) except where allowed under the Municipal Planning Scheme, any substance, materials or equipment that is dangerous, or is likely to cause danger to life or property;
  - (ii) an unsecured hole or excavation; or
  - (iii) an unsecured building that is in a state of disrepair, causing it to be dangerous to life or property.
- (c) If an Authorised Officer serves a Notice to Comply in relation to a contravention of clause 14.10(a), the works required to correct the contravention may include any of the following:
- (i) removal of any substance, material or equipment;
  - (ii) erection of a suitable fence, barrier or other enclosure;
  - (iii) erection of suitable warning signs;
  - (iv) securing or filling in a hole or excavation; and
  - (v) securing any dilapidated building.

#### **14.11 Matters prohibited on private premises**

- (a) An owner or Occupier of Premises must not cause, allow or suffer any of the following:
- (i) the Premises to be kept in a manner that:
    - harbours or is likely to harbour vermin; or
    - causes or is likely to cause a health hazard;
  - (ii) any heating device or chimney on the Premises to discharge any dust, grit, ash, smoke, effluvium, substance or odour that:
    - constitutes a nuisance; or
    - is unreasonable.
  - (iii) unless otherwise authorised by Council or a Statutory Authority, any substance other than storm water to be discharged from the Premises into a drain that is a Council asset;
  - (iv) any boundary fence or building structure to be placed, or vegetation to grow in such a manner that it causes a danger to traffic, drivers or other Road users by preventing a clear view of other Vehicles, objects or traffic control devices;

- (v) any barbeque to be used for any purpose other than for the preparation of food; or
- (vi) feed or leave food out for a type of bird contrary to any prescription made by Council

**Penalty: 10 Penalty Units**

- (b) For the purposes of clause 14.11(a)(ii), in determining whether discharge of any dust, grit, ash, smoke, effluvium, substance or odour from a heating device or chimney constitutes a nuisance, an Authorised Officer must consider all of the following:
  - (i) the nature of any complaint and other information received;
  - (ii) any observations of an Authorised Officer, including the level of observable dust, grit, ash, smoke, effluvium, substance or odour;
  - (iii) whether the heating device and/or chimney comply with any relevant Australian Standard;
  - (iv) the nature of the fuel used in the heating device; and
  - (v) any other relevant matter.
- (c) For the purposes of clause 14.11(a)(ii), the discharge of any dust, grit, ash, smoke, effluvium, substance or odour from a heating device or chimney on the Premises is unreasonable when:
  - (i) more than twenty (20) minutes after the lighting of a heating device, an Authorised Officer observes the emission of unreasonable levels of observable dust, grit, ash, smoke, effluvium, substance or odour; and
  - (ii) any dust, grit, ash smoke, effluvium, substance or odour is observed by an Authorised Officer to enter a habitable room on any other Residential premises.
- (d) Clause 14.11(a)(ii) does not apply to any commercial and industrial Premises.

**14.12 Accessing Drains**

- (a) Council or an Authorised Officer may enter any land, including any Private Land, so as to access any drain under the control of Council.
- (b) Where reasonably practicable, written notice will be provided to the owner or Occupier of the land before Council or any Authorised Officer enters the land under clause 14.12(a).



## Part 15 - Animals

### 15.1 Purpose

The Purpose of this Part is to provide for all of the following:

- (a) protection of the amenity of the Municipal District;
- (b) control of the number, type and behaviour of animals kept on land;
- (c) protection, as far as possible, of the health and welfare of animals;
- (d) prevention against animals causing:
  - (i) a nuisance; or
  - (ii) any adverse environmental impact; or
  - (iii) a danger to the safety of people or to the condition of property.

### 15.2 Number of animals

- (a) Except as otherwise provided in this Local Law, a Person must not, without a permit, keep on any Premises any more in number of each type of animal or groups of animals than is set out in Table 1.

**Penalty: 10 Penalty Units**

**Table 1 – Maximum numbers and types of animals**

	Maximum number allowed
Type of Animal	Any land
Dogs	2
Cats	2

- (b) Notwithstanding clause 15.2(a), a person must not, without a permit, keep on Premises in a Residential area any more than four (4) animals in total referred to in Table 1.

**Penalty: 5 Penalty Units**

- (c) Clauses 15.2(b) does not apply where the land is allowed to be used for the purposes of animal boarding, animal breeding or a pet shop under the Municipal Planning Scheme and the land is being used for that purpose.
- (d) A Person must not, without a permit, keep on any land a rooster, goose, turkey, peafowl, cockatoo or galah or any other bird that is not a domestic bird on Premises in a Residential area.

**Penalty: 10 Penalty Units**

- (e) Clause 15.2(d) does not apply where the land is allowed to be used for the purposes of a pet shop under the Municipal Planning Scheme and the land is being used for that purpose.

### 15.3 Farm Animals

A Person must not, without a permit, keep a Farm animal on Premises in a Residential area.

**Penalty: 10 Penalty Units**

#### **15.4 Litters of animals**

For the purpose of calculating the maximum number of animals specified in Table 1 in clause 15.2(a), the progeny of any animal kept on the land will not be counted for a period of 12 weeks after birth.

#### **15.5 Animal enclosures**

- (a) An owner of Occupier of Premises must keep any animal on the land in a kennel, house, aviary, shelter or other enclosure that complies with all of the following:
- (i) is constructed to the satisfaction of an Authorised Officer;
  - (ii) prevents, as far as practicable, the wandering or escape of such animal beyond the boundaries of the Premises;
  - (iii) meets the welfare needs of the animal;
  - (iv) is capable of being readily cleaned;
  - (v) is maintained in good repair at all times; and
  - (vi) is located at a distance from dwellings on other Premises to the satisfaction of the Authorised Officer

#### **Penalty: 10 Penalty Units**

- (b) Matters to be taken into consideration by an Authorised Officer under clause 15.5(a) when assessing whether the Animal Housing is suitable includes the following:
- (i) the type of animals to be kept;
  - (ii) the height of the kennel, house, aviary, shelter or other enclosure;
  - (iii) the location of the kennel, house, aviary, shelter or other enclosure having regard to all of the following:
    - the distance from the dwelling on the Premises;
    - the distance from any neighbouring dwellings; and
    - the amenity of the surrounding area;
  - (iv) the size of the kennel, house, aviary, shelter or other enclosure and its adequacy to house the number and type of animals;
  - (v) the security of the kennel, house, aviary, shelter or other enclosure;
  - (vi) the nature of the materials used in the kennel, house, aviary, shelter or other enclosure and the ability of such material to be readily cleansed;
  - (vii) any relevant Act, regulation or policy;
  - (viii) the Municipal Planning Scheme;
  - (ix) any relevant Council policy, Code of Practice or guidelines; and
  - (x) any other relevant matter.

#### **15.6 General provisions**

- (a) An Occupier of any Premises who keeps any animal on the Premises must comply with all of the following:
- (i) keep the ground surrounding the kennel, house, aviary, shelter or other enclosure where the animal is kept well drained;

- (ii) keep the land within three (3) metres of the kennel, house, aviary, shelter or other enclosure in which the animal is kept free of dry grass, weeds, refuse, waste or other material capable of harbouring rats or other vermin;
- (iii) keep all food for consumption by the animal in a vermin proof receptacle;
- (iv) all manure, excrement, refuse or rubbish produced or accumulated by the animal is to be removed;
  - at least once a week or as soon as is reasonably practicable; and
  - disposed of in a responsible manner that will not cause a nuisance to an adjoining Premises;
- (v) maintain any kennel, house, aviary, shelter or other enclosure where the animal is kept in a clean and sanitary condition;
- (vi) keep the animal in a manner that does not cause an offensive odour;
- (vii) prevent wastewater from entering the storm water system; or discharging onto adjoining Premises; and
- (viii) destroy any animal or bird suffering from any infectious disease communicable to human beings and immediately notify the Environmental Health Officer of the infectious disease.

**Penalty: 10 Penalty Units**

- (b) An owner or Occupier of Premises must not, without a permit, within six (6) metres of a dwelling on other Premises construct or allow to be constructed on the Premises any enclosure in which poultry or pigeons are kept, or intended to be kept.

**Penalty: 10 Penalty Units**

- (c) An Occupier of Premises which any animal is kept must not cause, allow or suffer excrement or manure to escape from the Premises.

**Penalty: 10 Penalty Units**

- (d) A Person who keeps any animal (other than a dog or cat) must keep the animal in a manner that does not cause a nuisance to any person.

**Penalty: 10 Penalty Units**

- (e) For the purposes of sub-clauses 15.6(c) and (d), circumstances in which the keeping of an animal constitutes a nuisance may include any of the following:
  - (i) when the animal makes noises or odours that unreasonably adversely affect the peace, comfort or convenience of any person on any other Premises; and
  - (ii) when the animal produces an unreasonable accumulation of excrement, whether on the keeper's Premises or on any other Premises.
- (f) If Council serves a Notice to Comply on a Person who has kept an animal in contravention of this Part and that Notice to Comply has not been complied with, the Person must not, without a permit, continue to keep the animal.

**Penalty: 10 Penalty Units**

## 15.7 Pest Animals

A Person must not, without a permit, feed or encourage the presence of feral animals, stray animals or foxes nor allow any such animals access to food.

**Penalty: 5 Penalty Units**

### **15.8 Bees and wasps**

- (a) An owner or Occupier of any Premises who keeps or allows bees to be kept on that Premises must do so in accordance with the Apiary Code of Practice.

**Penalty: 10 Penalty Units**

- (b) Nothing in clause 15.8(a) applies to a Person who keeps or allows bees to be kept on the Premises where a planning permit has been issued authorising such bees to be kept.
- (c) An owner or Occupier of any Premises must, upon becoming aware of the existence of an Unmanaged honeybee swarm on that Premises, take reasonable steps to cause the removal of that swarm.

**Penalty: 10 Penalty Units**

- (d) An owner or Occupier of any Premises must not allow or suffer English wasps or European wasps to nest on the Premises, and upon becoming aware of the existence of a Wasp nest on the Premises, must take reasonable steps to cause the nest to be destroyed.

**Penalty: 10 Penalty Units**

- (e) An owner or Occupier of any Premises must not allow or suffer any feral European honey bees on the land to cause, or be likely to cause, a nuisance to any Person.

**Penalty: 10 Penalty Units**

- (f) For the purposes of clause 15.8(e), circumstances in which feral European honey bees on the Premises are causing, or likely to cause, a nuisance include when the feral European honey bees are:
- (i) swarming; or
  - (ii) likely to swarm.
- (g) If an Authorised Officer serves a Notice to Comply in relation to a contravention of clause 15.8(d), the works required to correct the contravention may include the destruction of the English wasps or European wasps.
- (h) If an Authorised Officer serves a Notice to Comply in relation to a contravention of clause 15.8(e) the works required to correct the contravention may include:
- (i) removal from the Premises of the feral European honey bees; or
  - (ii) destruction of the feral European honey bees.

### **15.9 Effective Confinement of Livestock**

- (a) An owner of a Farm animal or an owner or Occupier of Premises on which a Farm animal is kept must securely fence the Premises, or tether the Farm animal, in such a manner as to prevent its wandering or escape beyond the boundaries of that Premises.

**Penalty: 10 Penalty Units**

- (b) Where Premises is fenced, an owner or Occupier of the Premises on which a Farm animal is kept must ensure that fences, including gates, are maintained in good repair at all times.

**Penalty: 10 Penalty Units**

- (c) Where fencing is or becomes inadequate, Council may:
  - (i) issue a notice to fence in a form approved by Council from time to time;  
or
  - (ii) repair or enact the repair of the fence at the cost of the owner.
- (d) Any costs incurred in carrying out this work becomes a debt due and payable to Council.
- (e) A Person must not allow any horse, cattle or other livestock animal to be at large in any Public Place.

**Penalty: 10 Penalty Units**

#### **15.10 Training of Animals**

- (a) A Person must not conduct or carry out, or allow or authorise another Person to conduct or carry out, any training of an animal in or on Council Land or a Public Place in such a manner as to be a danger to the safety of any Person or to the condition of any property, or to interfere with the reasonable use and enjoyment of the Council Land or Public Place or any part thereof.

**Penalty: 5 Penalty Units**

- (b) A Person must not, without a permit, for profit or commercial gain, conduct or carry out, or allow or authorise another person to conduct or carry out, any training of an animal in or on Council Land or a Public Place.

**Penalty: 5 Penalty units**

#### **15.11 Granting of Permits**

- (a) Council or an Authorised Officer may grant a permit to keep animals or birds other than permitted by this Local Law provided that:
  - (i) it was permissible to keep such animals or birds and quantities of animals or birds on any land prior to the making of this Local Law;
  - (ii) Building Works for residences on a subdivision or stage of a subdivision of the Land where the animals are kept, have not commenced; and
  - (iii) Occupiers of adjoining Premises have been notified of the applicant's intention to obtain a permit for the keeping of animals and have been afforded reasonable opportunity to comment on the application.
- (b) Council or an Authorised Officer may grant a permit to keep animals and birds on any land in a Residential area that are not specified in the table in clause 15.2.
- (c) In determining to grant a permit under clause 15.6(f) , Council or an Authorised Officer must take into account the potential to comply with the requirements for keeping animals and birds contained in this Local Law and having regard to the comments of any Occupiers of adjoining Premises referred to in clause 15.11(a)(iii).

## **Part 16 - Building and Construction Sites**

### **16.1 Purpose**

The Purpose of this Part is to:

- (a) ensure that Building Works do not damage or encroach onto a Road, Council Land or other asset or make it unsafe;
- (b) protect the amenity of the area and to prevent damage or detriment to nearby properties and residents;
- (c) protect drains and watercourses from the entry of building materials, dirt, mud, rubbish or litter; and
- (d) require an owner of land to deliver to Council a guarantee or bond against damage to Roads, Council Land and assets in the vicinity of land on which the Building Works are proposed to be commenced.

### **16.2 Building Sites**

Where any Building Works are undertaken the owner of the land on which the Building Works are undertaken and the Person responsible for the Building Works must ensure that:

- (a) adequate provision is made for the protection of any proximate Road and Vehicle Crossing from damage caused as a result of the Building Works and from deliveries and movement of materials to or from the Land;
- (b) provision is made within the land on which the Building Works are undertaken to contain all mud, dust, rubbish and litter that may result from the Building Works being undertaken;
- (c) no building materials, rubbish or litter leaving the Land is deposited on or finishes up on a Road or in Council's stormwater or other drainage system;
- (d) no building or other materials are left or stored on a Road, except as provided for in this Local Law; and
- (e) an adequate number of toilet facilities are provided and are kept on the land in a clean and sanitary condition.

**Penalty: 20 Penalty Units**

### **16.3 Access to a Building Site**

Where any Building Works are undertaken the owner of the land on which the Building Works are undertaken and the Person responsible for the Building Works must ensure that:

- (a) the driver of any Vehicle involved in delivering or receiving goods or equipment to or from land where Building Work is being undertaken or is to be carried out; or
- (b) any demolition contractor engaged to carry out the demolition of a structure on the land, in the case of Building Work involving demolition,

access the land where the Building Works are to take place in accordance with the conditions of an Asset Protection Permit or across a temporary vehicle crossing where the Asset Protection Permit fails to specify how access to the land is to occur.

**Penalty: 20 Penalty Units**

#### **16.4 Damage to or deposit of material on a Road**

- (a) A Person must not allow soil, gravel, sediment, concrete, debris or other material to be washed onto or otherwise deposited or placed on a Road from any Building site or other land.

**Penalty: 20 Penalty Units**

- (b) Where Building Works or related activities result in:
- (i) damage to a Road; or
  - (ii) building residue, concrete, dirt or mud being left on or finishing up on a Road or entering Council's stormwater or other drainage system or any watercourse

the owner of the land on which the Building Works are undertaken and the Person responsible for the Building Works must carry out reinstatement works or clean up the Road or drainage system to the satisfaction of an Authorised Officer.

**Penalty: 20 Penalty Units**

#### **16.5 Power to Impound**

An Authorised Officer may impound any item or thing found placed or left in contravention of this Part.

#### **16.6 Provision of a Guarantee or Bond against damage to Council Roads, Land and Assets**

- (a) The owner of any land must not cause or allow any Building Works to commence on the land without:
- (i) giving advice to Council seven (7) days prior to the commencement of the Building Works as to the general nature of the Building Works to be undertaken; and
  - (ii) paying an inspection fee to Council.

**Penalty: 40 Penalty Units**

- (b) During the seven (7) day period described in clause 16.6(a) the owner of the land must afford Council a reasonable opportunity to inspect the land for the purpose of determining whether there is a risk of damage to proximate Roads, Council Land or assets.
- (c) The owner of any land must not commence any Building Works until the expiration of one Business Day from the date of payment of the inspection fee.

**Penalty: 20 Penalty Units**

- (d) If by reason of:
- (i) the nature and extent of the proposed Building Works;
  - (ii) the duration of the Building Works;
  - (iii) the condition of Roads, Council Land and assets; or
  - (iv) any other relevant matter

an Authorised Officer is of the opinion that there is a risk of damage to a proximate Road, Council Land or assets, he or she may give written notice to the owner requiring the owner to deliver to Council a guarantee or bond satisfactory to the Authorised Officer.

- (e) A notice given under clause 16.6(d) must specify:

- (i) the guarantee or bond, which is satisfactory to the Authorised Officer;
  - (ii) the amount of guarantee or bond; and
  - (iii) the period within which the guarantee or bond must be delivered to Council.
- (f) Where pursuant to a notice under clause 16.6(d) a guarantee or bond is required and the owner commences or permits any Building Works to commence without complying with the notice, the owner is guilty of an offence.

**Penalty: 20 Penalty Units**

- (g) When the Building Works have been completed the owner of the land on which the Building Works took place must advise Council in writing, and Council may arrange for an Authorised Officer to inspect any proximate Roads, Council Land and assets within 2 Business Days after the receipt by Council of such advice.
- (h) Without limiting the effect of sub-clauses 16.3 and 16.4, if, in the opinion of an Authorised Officer, the Building Works or related activities have caused any:
- (i) damage to a Road or any Council Land or assets; or
  - (ii) residue, dirt, mud, concrete, rubbish or litter to be left on a Road or any Council Land or assets; or
  - (iii) residue, dirt, mud, concrete, rubbish or litter to enter Council's stormwater system

the Authorised Officer may orally, or by serving a Notice to Comply, direct the owner of the relevant land or any person found carrying out Building Works or apparently in charge of land where Building Works have been or are being carried on, to repair the damage or remove the material.

- (i) If the owner, person in charge, or person undertaking Building Works fails to repair the damage or remove the material as required by the oral instruction or Notice to Comply, the Authorised Officer may apply any guarantee or bond towards the cost of repairing the damage or removing the material.
- (j) If:
- (i) in the opinion of an Authorised Officer there is no damage to repair or material to remove; or
  - (ii) an Authorised Officer does not carry out the inspection within the period specified in sub-clause 16.6(b)

the guarantee or bond must be returned to the owner.

**16.7 Building Works limited to certain times**

Except in a case of emergency or in accordance with a permit, an owner or Occupier of any Land must not cause or allow any Building Works to be carried out on land unless the Building Works are carried out between the hours:

- (a) 7.00am and 8.00pm Monday to Friday; or
- (b) 9.00am and 7.00pm on any Saturday, Sunday or Public Holiday.

**Penalty: 20 Penalty Units**



## **16.8 Building Works on Dwellings**

Notwithstanding clause 16.7 a Person may carry out or cause to be carried out Building Works on a dwelling or Land associated with a dwelling if the building works are carried out between the hours of:

- (a) 7.00am and 8.00pm Monday to Friday; or
- (b) 9.00am and 8.00pm on any Saturday, Sunday or public holiday

and the Person:

- (c) is the owner or Occupier carrying out Building Works for himself or herself and no other Person is engaged or employed for fee or reward; and
- (d) complying with, or observing any direction, notice or order of Council an Authorised Officer or a Statutory Authority.

## **16.9 Minor Building Works**

Notwithstanding clause 16.7 and 16.8 a Person may carry out Minor Building Works on a dwelling or Land associated with a dwelling at times other than those specified in clause 16.7(a), 16.7(b), 16.8(a) and 16.8(b) provided that any nuisance caused by those Building Works does not affect any person on or within any other Land or dwelling.

## **16.10 Building Works creating a nuisance**

A Person must not carry out any Building Works or cause or allow to be carried out any Building Works so as to create a nuisance to another Person.

**Penalty: 20 Penalty Units**

## **16.11 Building Works affecting Roads**

- (a) Where any Building Works on land affects the passage of Vehicles or pedestrians along a Road, the owner or Occupier of the land must obtain a permit for the erection of a hoarding, or other barrier approved by an Authorised Officer, to protect persons using the Road before such Building Works commences.

**Penalty: 10 Penalty Units**

- (b) Where, in the opinion of an Authorised Officer, any Building Works on land is likely to cause damage to a Road, the Authorised Officer must inform the owner or Occupier of the Land on which the Building Works are to take place.
- (c) The owner or Occupier of the land described in clause 16.11(b) must not, without a permit, commence such Building Works or cause such Building Works to be commenced.

**Penalty: 10 Penalty Units**

## **16.12 Direction to cease Building Works**

- (a) Council or an Authorised Officer may inspect a Building Site at any reasonable time.
- (b) If Council or an Authorised Officer identifies any damage which appears from non-compliance with this Local Law or a permit issued under this Local Law, Council or an Authorised Officer may:
  - (i) direct the person responsible to rectify the damage within a specified time;

- (ii) may proceed to rectify the damage should the responsible person fail to do so in accordance with a direction issued under clause 16.12(b)(i);
  - (iii) may institute proceedings against the responsible Person to recover the costs of rectifying the damage; and
  - (iv) must provide the responsible Person with written confirmation of the damage either at the time of the inspection or within a reasonable timeframe.
- (c) An Authorised Officer may either orally or in writing direct any Person:
- (i) found carrying out Building Works in contravention of this Local Law or a permit issued under this Local Law; or
  - (ii) apparently in charge of land where Building Works are being or suspected of being carried out in contravention of this Local Law or a permit issued under this Local Law
- to cease carrying out those Building Works immediately or within any period the Authorised Officer deems as being reasonable.
- (d) Any person who fails to comply with a direction given under clause 16.12(b) or 16.12(c) is guilty of an offence.

**Penalty: 20 Penalty Units**

### **16.13 Code of Practice**

- (a) In addition to the controls provided for by clauses 16.2 to 16.12 (inclusive), Council may, by resolution, adopt a Code of Practice to set standards or prohibit or regulate activities associated with building or construction activities within the whole or any portion of the Municipal District.
- (b) Before adopting any Code of Practice, Council must give Public Notice of the proposed Code of Practice and consider any submissions made in response to the Public Notice.
- (c) Any Code of Practice adopted by Council is of no force or effect until its purport appear in a Public Notice.
- (d) Any Code of Practice adopted by Council is incorporated into this Local Law.
- (e) A Person must not act contrary to any Code of Practice adopted under clause 16.13(a).

**Penalty: 20 Penalty Units**

## **Part 17 - Management of Parking**

### **17.1 Purpose**

The Purpose of this Part is to:

- (a) provide for the fair and equitable use of available parking space on a Road or on Land under the control of Council;
- (b) provide parking schemes to encourage a turnover of Vehicle parking in business areas for the benefit of customers and businesses; and
- (c) protect the safety of Persons.

### **17.2 Parking of Vehicles**

Council may, from time to time, fix the days, hours, fees for and conditions under, which a Vehicle may be left in or on:

- (a) a Road;
- (b) any parking area under the control of Council; and
- (c) Council Land

and may erect appropriate signs.

### **17.3 Permit Parking Schemes**

Council may, from time to time by resolution, introduce a permit parking scheme which:

- (a) exempts any Vehicle of a resident or specified person or specified class of person from the restrictions of time limited parking; or
- (b) prohibits parking in specified areas by persons other than permit holders.

### **17.4 Code of Practice**

- (a) Council may, by resolution, adopt a Code of Practice to set standards or prohibit or regulate activities associated with a permit parking scheme within the whole or any portion of the Municipal District.
- (b) Before adopting any Code of Practice, Council must give Public Notice of the proposed Code of Practice and consider any submissions made in response to the Public Notice.
- (c) Any Code of Practice adopted by Council is of no force or effect until its purport appear in a Public Notice.
- (d) Any Code of Practice adopted by Council is incorporated into this Local Law.
- (e) A person must not act contrary to any Code of Practice.

**Penalty: 10 Penalty Units**

## **Part 18 - Disposal of Waste**

### **18.1 Purpose**

The purpose of this Part is to:

- (a) ensure the safe and efficient collection of domestic rubbish, waste and recyclables placed on a Road for collection; and
- (b) prevent and regulate the deposit of refuse and rubbish upon streets and other lands and places under the control of Council.

### **18.2 Regulation of Deposit of Waste**

- (a) A Person must not deposit or leave any waste on or in any Road, Council Land or Public Place other than in accordance with the provisions of this Local Law.
- (b) A Person must not deposit or leave any waste on any Premises unless it is deposited in an approved receptacle or Trade Waste Bin in accordance with the provisions of this Local Law.

**Penalty: 5 Penalty Units**

### **18.3 Placement of rubbish for collection**

Each Occupier of land must ensure that all domestic rubbish, green waste, hard waste, recyclable and other waste materials which he or she places out on a Road for collection is placed out in accordance with any policy or guidelines of Council.

**Penalty: 10 Penalty Units**

### **18.4 Interference with collection**

A Person must not, without the authority of Council, remove or interfere with any domestic rubbish, recyclables or green waste placed out for collection in accordance with this Local Law except that it will be lawful for an Occupier of land to recover before collection any material he or she has placed out or caused to be placed out for collection.

**Penalty: 10 Penalty Units**

### **18.5 Council supplied Waste Receptacles**

- (a) All approved receptacles are the property of Council and must remain with the dwelling to which it was provided at all times.
- (b) It is an offence for any Person to remove any approved receptacle the property of Council from the dwelling to which it was supplied.

**Penalty: 10 Penalty Units**

- (c) The Occupier of a dwelling supplied with a Council owned approved waste receptacle must use the approved receptacle only for the purpose for which it has been provided.

**Penalty: 10 Penalty Units**

- (d) The Occupier of a dwelling supplied with a Council owned approved waste receptacle must keep such waste receptacle in good order and a clean, sanitary and inoffensive condition.

**Penalty: 10 Penalty Units**

## 18.6 Prohibited use of Waste Receptacles

- (a) A Person must not place, cause, allow to be placed in any approved receptacle any:
- (i) hot ashes, slops or liquid waste or offensive material;
  - (ii) dirt, dust including any matter from a vacuum cleaner, hair or other like substance, unless the same has been securely wrapped in paper or placed in an impermeable covering or container so that its escape is prevented;
  - (iii) glass, wire or other jagged or rough edged material or object unless securely wrapped so as to prevent injury to any person emptying the approved receptacle;
  - (iv) syringes or other sharp objects which may be contaminated with infectious waste including blood;
  - (v) oil, paint, solvents, flammable liquid or similar substances;
  - (vi) matter or substance deemed by an Authorised Officer to be unsuitable for collection;
  - (vii) household rubbish or recyclable waste exceeding a total weight which cannot be easily and conveniently emptied by one (1) person or in the case of an approved receptacle which is designed to be emptied mechanically, household rubbish or recyclable waste exceeding the design specifications of that approved receptacle;
  - (viii) the carcass of a dead animal;
  - (ix) industrial waste;
  - (x) green waste, other than what is permitted in an approved green waste receptacle;
  - (xi) nightsoil, sewerage or manure;
  - (xii) disposable napkins unless they have been cleaned of solids and securely wrapped in impervious material;
  - (xiii) prescribed wastes as defined in the *Environment Protection (Industrial Waste Resource) Regulations 2009*; or
  - (xiv) any other object or matter which is or may be injurious to health.

### Penalty: 5 Penalty Units

- (b) Notwithstanding anything contained in clause 18.6(a)(iv), a Person must ensure that infectious waste is placed in a container specifically designed to receive such waste and such container is disposed in accordance with the *Environment Protection (Industrial Waste Resource) Regulations 2009*;
- (c) Nothing in clause 18.6(a)(iv) applies to any Person who is authorised or licensed to transport, or dispose of, such prescribed waste by the Environment Protection Authority pursuant to the **Environment Protection Act 1970** and the *Environment Protection (Industrial Waste Resources) Regulations 2009*.

## 18.7 Deposit of Refuse and rubbish in Public Places

Subject to clause 18.3, a Person must not:

- (a) deposit any household refuse, rubbish or other waste upon any Road, Council Land or Public Place;

- (b) except at a refuse disposal site, deposit any household refuse or other rubbish upon another Person's land; or
- (c) place out for collection any household refuse unless it is in a refuse receptacle approved by Council.

**Penalty: 10 Penalty Units**

**18.8 Commercial Waste**

A Person must not place, cause or allow to be placed or deposited any refuse, rubbish or waste from commercial, industrial or trade Premises in a public, household, green or recycled waste receptacle.

**Penalty: 10 Penalty Units**

**18.9 Depositing of waste at a Recycling and Waste Transfer Centre**

A Person must not, without a permit, deposit any hazardous waste, dangerous or infectious materials at any Council Recovery & Waste Transfer Centre.

**Penalty: 10 Penalty Units**

## **Part 19 - Trade Wastes**

### **19.1 Purpose**

The purpose of this Part is to ensure that occupiers of commercial and industrial Premises store, manage and dispose of wastes (including liquid and food waste) in an appropriate manner.

### **19.2 Occupiers must provide suitable waste storage containers**

An Occupier of commercial and industrial Premises must provide a container for the storage of trade wastes which is:

- (a) constructed of impervious materials, water-tight and pest proof;
- (b) emptied before it overflows; and
- (c) maintained and kept in a clean condition.

**Penalty: 20 Penalty Units**

### **19.3 Storage of Liquid Trade Waste**

The Occupier of every commercial and industrial premises that stores liquid trade waste must ensure that storage containers are:

- (a) constructed of impervious materials;
- (b) maintained in a clean condition;
- (c) in sufficient numbers to contain all the waste produced;
- (d) fitted with a suitably sized funnel when manual filling of the container takes place;
- (e) stored under cover when deemed necessary by an Authorised Officer;
- (f) secured within an enclosure constructed and maintained to the satisfaction of an Authorised Officer;
- (g) stored within an area designed and constructed to prevent the escape of waste;
- (h) stored in such a manner that it cannot contaminate or enter the stormwater system;
- (i) located so as to enable the recovery of spilt material; and
- (j) supplied with such equipment as will enable the clean-up of spilt material.

**Penalty: 20 Penalty Units**

### **19.4 Provision of a bin storage and wash facility on food premises**

An Occupier of any food Premises must, when required by an Authorised Officer to do so, provide a bin storage and wash facility to the satisfaction of the Authorised Officer that is:

- (a) able to contain all wastes, including waste water from cleaning activities, by the provision of graded surfaces, bunding and/or interception drains;
- (b) of an adequate size to enable all garbage and recyclable matter to be stored;
- (c) of an adequate size to enable all soiled waste storage containers, cleaning and similar equipment to be easily and effectively cleaned;
- (d) graded to a silt trap, and/or connected to a grease trap as required by the local water and sewerage authority;

- (e) supplied with hot and cold running water connected to a hose through a single outlet;
- (f) located under cover if the floor area of facility greater than 20m<sup>2</sup>; and
- (g) adequately maintained.

**Penalty: 20 Penalty Units**

#### **19.5 Collection of Trade Waste**

A Person must not collect, cause or allow to be collected any industrial or commercial trade waste or recyclable materials if that collection creates unreasonable noise or affects the amenity of the area except between the hours of:

- (a) 6.00am and 8.00pm Monday to Saturday; or
- (b) 9.00am and 8.00pm on any Sunday or Public Holidays.

**Penalty: 20 Penalty Units**

#### **19.6 Code of Practice**

- (a) In addition to the controls provided for by clauses 19.2 to 19.5 (inclusive), Council may, by resolution, adopt a Code of Practice to set standards, prohibit or further provide for the storage and treatment of Trade Waste.
- (b) Before adopting any Code of Practice, Council must give Public Notice of the proposed Code of Practice and consider any submissions made in response to the Public Notice.
- (c) Any Code of Practice adopted by Council is of no force or effect until its purport appear in a Public Notice.
- (d) Any Code of Practice adopted by Council is incorporated into this Local Law.
- (e) A Person must not act contrary to any Code of Practice adopted under clause 19.6(a).

**Penalty: 20 Penalty Units**



## **Part 20 - Use of Council Land and Municipal Buildings**

### **20.1 Purpose**

The purpose of this Part is to:

- (a) enable persons to enjoy the use of Council Land and Municipal Buildings without nuisance or disturbance;
- (b) protect the safety of Council Land users and the amenity of the municipality; and
- (c) to regulate the use of Council Land.

### **20.2 Activities that require a permit**

A Person must not, without a permit, on Council Land:

- (a) hold any circus, carnival or fair or erect any temporary shelter;
- (b) pitch, erect or occupy any camp, tent, temporary shelter, caravan, trailer or Vehicle used as a mobile home;
- (c) light any fire or allow any fire to remain alight except in a barbeque;
- (d) ride, drive or otherwise use any horse, Recreation Vehicle or motorised Vehicle except in an area designated or designed for the purpose;
- (e) erect, fix or place any advertisements for any charitable, cultural, community, personal or commercial purpose;
- (f) conduct or organise any Competitive Game or Sport;
- (g) engage in, play or practise any game in such a manner as to be a danger to the safety of any Person or interfere with the reasonable use and enjoyment of the Council Land or any part thereof by any other Person;
- (h) engage in, play or practise golf except at a golf course;
- (i) sell, display, expose or offer for sale, any food, drink or other article unless the food, drink or other article is to be sold, displayed, exposed or offered for sale in accordance with this Local Law; or
- (j) operate or cause to be operated any amusement or form of gambling for which a charge or fee is made or demanded.

**Penalty: 10 Penalty Units**

### **20.3 Prohibited Activities on Council Land**

A Person must not while on Council Land:

- (a) behave in a disorderly manner;
- (b) act in a riotous way;
- (c) act contrary to a sign authorised by Council;
- (d) use any offensive, indecent or abusive language;
- (e) enter or remain in or on any Council Land while in a drunken or intoxicated condition, or while under the influence of any prohibited drug;
- (f) remain in or upon the Council Land after having been lawfully directed to leave by an Authorised Officer or a Member of the Victoria Police, regardless of any entrance fee paid by that person
- (g) emit or cause to be emitted such a volume of noise as to interfere with the quiet enjoyment of any Person or Persons; or

- (h) endanger any other Person or Persons using the Council Land.

**Project: 10 Penalty Units**

**20.4 Municipal Reserves**

- (a) Council may, by resolution:
  - (i) set aside days on, and times at, which members of the public cannot use or enter a Reserve; and
  - (ii) fix charges or entrance fees which members of the public must pay before using or entering a Reserve.
- (b) A Person must not, without the authority of Council, use or enter a Reserve on a day, or at a time, when members of the public are prohibited from using or entering the Reserve;

**Penalty: 10 Penalty Units**

- (c) A Person must not, without the authority of Council, use or enter a Reserve without paying the charge or entrance fee fixed by Council.

**Penalty: 10 Penalty Units**

**20.5 Specific Use of Reserves and Sports Grounds**

- (a) Council may grant to any Person a lease or licence to use a Reserve or sports ground for the purposes of conducting a Competitive Game or Sport.
- (b) Any lease or licence granted by Council is subject to such terms as Council thinks fit.
- (c) If there is any difference or conflict between the express provisions of any lease or licence and this Local Law, then the provisions of such lease or licence will apply.
- (d) During the period of occupation by a lessee or licensee, a Person must not, without the authority of Council or the lessee or licensee, enter or remain within or upon, the Reserve or sports ground.

**Penalty: 10 Penalty Units**

**20.6 Municipal Buildings**

- (a) A Person must not, without the prior consent of the Manager, bring into or cause or allow to be brought into or remain in any part of a Municipal Building:
  - (i) any wheeled vehicle or skateboard other than a pram or pusher with a child or wheelchair or other appliance specifically for the purpose of assisting a person with disabilities; or
  - (ii) any flammable substance, or any chemical substance, liquid or powder which is dangerous or injurious to health or has the potential to foul, pollute or soil any part of a Municipal Building or to cause discomfort to Persons.

**Penalty: 10 Penalty Units**

- (b) A Person must not, without the prior consent of the Manager:
  - (i) sell, expose or offer for sale any food, drink, or other article; or
  - (ii) make a collection of money

in any part of a Municipal Building.

**Penalty: 10 Penalty Units**

## **20.7 Prohibited Activities in Municipal Buildings**

A person must not, while in a Municipal Building:

- (a) erect, fix, or place any advertisements or notices;
- (b) ride or drive any bicycle, skateboard or other Vehicle into or within the Municipal Building;
- (c) carry a firearm or an offensive weapon into the Municipal Building;
- (d) behave in a disorderly manner;
- (e) create or take part in a fight or disturbance;
- (f) use any offensive, indecent or abusive language;
- (g) offend against decency, whether by reason of dress or conduct;
- (h) enter or remain within the Municipal Building while in a drunken or intoxicated condition, or while under the influence of any hallucinatory or prohibited drug;
- (i) remain within the Municipal Building after having been lawfully directed to leave by an Authorised Officer or member of the Victoria Police;
- (j) emit or cause to be emitted such a volume of noise as to interfere with the use or enjoyment of the Municipal Building by other Persons;
- (k) endanger any other Person or Persons;
- (l) enter or use any room that has been designated or set aside for Persons of the opposite sex unless that Person is a child under the age of 8 years who is in the care of a responsible Person;
- (m) leave any litter, other than in a bin or receptacle provided for such purpose;
- (n) spit, expectorate or urinate on or otherwise foul any notice, seat, furniture, fixture, fitting, carpet, ceiling, wall or plant; or
- (o) destroy, deface, defile, damage, remove, or interfere with any notice, seat, furniture, fixture, fitting, carpet, ceiling, wall or plant.

**Penalty: 20 penalty units**

## **20.8 Power to Impound**

An Authorised Officer may impound any item or thing found placed or left in contravention of this Part.

## **Part 21 - Prohibition of Smoking**

### **21.1 Purpose**

The purpose of this Part is to:

- (a) prohibit smoking at certain events, including events organised or sponsored by Council;
- (b) prohibit smoking in or around buildings on Council Land; and
- (c) prohibit smoking within the confines of a playground located within a reserve.

### **21.2 Smoking on Council Land**

A Person must not smoke:

- (a) inside a building on Council Land;
- (b) within 12 metres of the entrance to a building on Council Land; or
- (c) within 12 metres of a building on a Reserve located on Council Land.

**Penalty: 5 Penalty Units**

### **21.3 Smoking Prohibited in Children's Playgrounds**

A person must not smoke in the confines of a playground or within 10 metres of a playground located in a Reserve.

**Penalty: 5 Penalty Units**

### **21.4 No Smoking Signs**

Council may erect signage that identifies any area where smoking is prohibited pursuant to this Local Law.

## **Part 22 - Permits**

### **22.1 Purpose**

The purpose of this Part is to provide for the issue of permits under this Local Law.

### **22.2 Application for a Permit**

Unless determined otherwise by an Authorised Officer, an application for a permit under this Local Law must contain any information specified by Council and be accompanied by the appropriate fee.

### **22.3 Who may issue Permits**

A permit may be issued by Council or by an Authorised Officer.

### **22.4 Notice of Application may be required**

Council or an Authorised Officer may require the Applicant to give notice of the application to Persons who may be affected by the granting of the permit which will entitle those Persons to make a submission which must be considered by Council or an Authorised Officer before a determination is made on the application.

### **22.5 Power to obtain necessary information**

Council or an Authorised Officer may require an Applicant to provide additional information before dealing with an application for the permit.

### **22.6 Permit may be conditional**

- (a) A permit under this Local Law may be issued subject to conditions including conditions relating to -
  - (i) the payment of a fee, charge or lodgement of a guarantee or bond;
  - (ii) a standard to be applied;
  - (iii) a time limit to be applied or specifying the duration, commencement or completion date;
  - (iv) the happening of an event;
  - (v) the rectification, remedying or restoration of a situation or circumstance;
  - (vi) where the Applicant is not the owner of the subject property, the consent of the owner;
  - (vii) the requirement to comply with any policy, code of practice, or guidelines that Council has in force from time to time; and
  - (viii) the granting of some other permit or authorisation which may be required by Council whether under this Local Law or otherwise.
- (b) Council or an Authorised Officer may, during the currency of a permit, alter the conditions of a permit if it considers it to be appropriate to do so, after providing the permit holder with an opportunity to make comment on the proposed alteration.
- (c) A Person who undertakes an activity for which the Council has issued a permit must comply with the conditions of the permit.
- (d) A Person who fails to comply with any condition of a permit is guilty of an offence against this Local Law.

**Penalty: 20 Penalty Units**

## **22.7 Duration of a permit**

Except where expressly stated in this Local Law, a permit is in force for 12 months after the date it was issued, or until the expiry date indicated on the permit, unless it is cancelled before the expiry date.

## **22.8 Cancellation of a permit**

- (a) Council or an Authorised Officer may cancel a permit if it or he or she considers that:
  - (i) there has been a serious or ongoing breach of the conditions of the permit;
  - (ii) there was a serious error, concealment of fact or misrepresentation in the application for the permit; or
  - (iii) in the circumstances the permit should be cancelled.
- (b) Before Council or an Authorised Officer cancels a permit, the permit holder must, if practicable, be provided an opportunity to make comment on the proposed cancellation.

## **22.9 Council exempt from obtaining permits**

Unless otherwise provided for, Council is exempt from the need to obtain any permit required by this Local Law.

## **22.10 Applying for a permit**

A Person can apply for a permit by:

- (a) lodging an application with Council in a form approved by Council or an Authorised Officer; and
- (b) paying to Council the appropriate application fee, if any.

## **Part 23 - Fees and Charges**

### **23.1 Purpose**

The purpose of this Part is to provide for Council to set fees and charges payable under this Local Law.

### **23.2 Setting Fees and Charges**

Council may from time to time, by resolution, determine the fees, charges, guarantee or bond to apply under this Local Law, which may include an administrative or processing fee or charge and Council must give reasonable public notice of its resolution to act or alter fees and charges.

### **23.3 Differential or Structured Fees and Charges**

In determining any fees and charges, Council may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.

### **23.4 Waiver or Alteration to Fees and Charges**

The Chief Executive Officer may waive, reduce or alter any fee, or charge a bond or guarantee with or without conditions.

## **Part 24 – Policies, Guidelines and Procedures**

### **24.1 Purpose**

The purposes of this Part is to provide for Council to adopt policies, procedures and guidelines for the proper administration and enforcement of this Local Law.

### **24.2 Policies, Guidelines and Procedures**

- (a) Council may, by resolution, adopt any policies, guidelines or procedures for the proper administration and enforcement of this Local Law.
- (b) Any policy, procedure or guideline:
  - (i) relating to the landscaping of nature strips; or
  - (ii) imposing an obligation on a personmust appear on Council's website, and in a register which is available for public inspection at Council's principal office during normal business hours.
- (c) A person on whom an obligation is imposed by any policy, procedure or guideline adopted under clause 24.2(a) must comply with that obligation.

**Penalty: 10 Penalty Units**



## **Part 25 - Enforcement & Penalties**

### **25.1 Purpose**

The purpose of this Part is to provide for enforcement of this Local Law.

### **25.2 Power of Authorised Officers to issue a Notice to Comply**

- (a) If an Authorised Officer reasonably suspects that a Person has contravened this local law he or she may serve a Notice to Comply on that Person in a form approved by Council or a Delegated Officer.
- (b) A Notice to Comply must:
  - (i) specify the act, matter or thing that must be done or cease to be done;
  - (ii) specify the time within which the Person on whom the Notice to Comply is served is required to do or cease to do the act, matter or thing;
  - (iii) be signed by an Authorised Officer, and
  - (iv) be served on the Person named therein in accordance with this Local Law
- (c) The time to comply specified in a Notice to Comply must be reasonable in the circumstances, and what is reasonable will depend on the acts, matters or things to be done or cease to be done, but must take into account as applicable:
  - (i) the degree of difficulty;
  - (ii) the availability of necessary materials and other necessary items;
  - (iii) climatic conditions;
  - (iv) the degree of risk or potential risk; and
  - (v) any other relevant factor.

### **25.3 Failure to adhere to a Notice to Comply**

Any Person who fails to remedy a situation or do any act required to be done in accordance with a Notice to Comply served under this Local Law:

- (a) is guilty of an offence and is liable to the penalty of 20 penalty units; and
- (b) is liable to pay to Council all costs incurred by Council (including administration costs) in complying with a Notice to Comply.

### **25.4 Offences and Penalties**

- (a) Any Person who whether wilfully or not:
  - (i) fails to do anything directed or required to be done;
  - (ii) does anything forbidden; or
  - (iii) contravenes a condition included in a permitis guilty of an offence against this Local Law and, if a specific penalty is not provided, is liable to a penalty:
  - for an initial offence 10 Penalty Units; or
  - for a second or subsequent offence 20 Penalty Units.
- (b) The Penalty Units indicated in this Local Law are maximum penalties which may apply if the offence is found proven by a Court.

## **25.5 Infringement Notice**

- (a) As an alternative to prosecution, an Authorised Officer may serve an infringement notice on a person who has contravened this Local Law.
- (b) The penalty set out in an infringement notice will be:
  - (i) 2 Penalty Units for an initial contravention; and
  - (ii) 3 Penalty Units for a subsequent contravention.
- (c) A Delegated Officer who was not involved in making the decision to serve the infringement notice may, following consideration of correspondence from any person served with an infringement notice, waive the infringement notice.
- (d) The power to waive an infringement notice under clause 25.5(c) is in addition to the powers given under the **Infringements Act 2006**.
- (e) Any Person issued with an infringement notice may pay the penalty indicated to Council at any location, or by any other means, nominated by Council from time to time as being an appropriate location or means of making payment.
- (f) To avoid prosecution, the penalty indicated on an infringement notice must be paid within 28 days from the date of issue of the infringement notice.
- (g) Any Person served with an infringement notice is entitled to disregard the infringement notice and defend the prosecution in Court.

## **25.6 Withdrawal of a Local Law Infringement Notice**

- (a) An Authorised Officer may withdraw an infringement notice regardless of any payment if that Authorised Officer believes upon further investigation that the matter is of a more serious nature and would be better dealt with in Court.
- (b) Upon withdrawal of an infringement notice the Authorised Officer must, within 7 days, serve notice on the Person issued with the infringement notice a notice advising of the reasons for the withdrawal and make a full refund of any penalty paid.

## **25.7 Service of Notice**

- (a) Any notice or notification required to be served on or given to a Person under this Local Law may be served on or given to the Person by either:
  - (i) delivering the notice or notification to the Person;
  - (ii) leaving the notice or notification at his or her usual or last known place of residence or business with a Person apparently over the age of sixteen (16) years and apparently residing or employed at that place; or
  - (iii) sending the notice or notification by post to the Person at his or her last known place of residence or business.
- (b) Where a notice or notification is directed to a Person who is alleged to have contravened this Local Law by reason of being the owner or Occupier of land or Premises and that Person's name is not known, the notice may be addressed to "the owner", "the occupier" or "the person in control" (as the case may be).
- (c) Any notice or notification served by post in accordance with this clause will be deemed to have been served on the day following the day of posting.

## **25.8 Impounding**

- (a) If an Authorised Officer has impounded any 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.
- (b) Any impounded animal or other thing which is retained by Council must be released to the owner upon payment of the fee and charges fixed by Council.
- (c) As soon as possible after impounding, the Authorised Officer must, if practicable, serve a notice in writing on the owner or Person responsible for the animal or other thing which has been impounded setting out the fees and charges payable and the time by which the animal or other thing must be collected.
- (d) If, after the time required in the notice, an impounded animal or other thing is not collected, an Authorised Officer may take action to dispose or destroy the impounded animal or thing in accordance with guidelines as approved from time to time by the Chief Executive Officer.
- (e) When the identity or whereabouts of the owner or Person responsible for the impounded animal or other thing is unknown, an Authorised Officer must take reasonable steps to ascertain the identity or whereabouts of that Person and to contact that person, after which the Authorised Officer may proceed to dispose of or destroy the impounded animal or other thing in accordance with clause 25.8(d).
- (f) Any proceeds from the disposal of any impounded animal or other thing, except for all reasonable costs, charges and expenses properly incurred by Council of and incidental to the sale or any attempted sale or otherwise, may be claimed by the owner within one (1) year of sale.

## **25.9 Recovery of Expenses**

Any expense incurred by Council in consequence of a breach of this Local Law or in the execution of work directed pursuant to this Local Law to be executed by any Person and not executed by him or her must be paid immediately on demand to Council by the Person committing such breach or failing to execute such work and is recoverable by Council as a debt.

## **25.10 Appeals**

Any Person who is aggrieved by any decision under this Local Law not to grant him or her a permit may apply to Council to be heard and may make a written submission for consideration by Council but this right will not in any way remove that Person's obligation to act in accordance with any decision, direction or notice given or made under this Local Law.

## **25.11 Urgent Powers**

An Authorised Officer may, in urgent circumstances arising from a failure to comply with this Local Law or a permit, take action to remove, remedy or rectify a situation, without the necessity to serve a Notice to Comply provided:

- (a) he or she considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a notice, may place a Person, animal, property or thing at risk or in danger;
- (b) details of the circumstances and remedying action are as soon as possible forwarded to the Person on whose behalf the action was taken; and
- (c) the action taken does not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.

## **25.12 Official Warnings**

- (a) An Authorised Officer may serve an official warning rather than an infringement notice on a Person if the Authorised Officer:
  - (i) believes on reasonable grounds that a Person has committed an offence; and
  - (ii) is of the opinion that, in all the circumstances, it is appropriate to serve an official warning.
- (b) An official warning must be in writing and contain the following details:
  - (i) that it is an official warning;
  - (ii) the date of the official warning;
  - (iii) the name and address of the Person served with the official warning;
  - (iv) the identifying reference of the official warning;
  - (v) either the name of the issuing officer or the identifying reference of the Authorised Officer who issued it;
  - (vi) the date, approximate time and place where the offence is alleged to have been committed; and
  - (vii) a brief description of the offence alleged to have been committed.
- (c) Nothing in this clause limits an Authorised Officer's discretion as to whether to serve an infringement notice.
- (d) A Delegated Officer who was not involved in making the decision to serve the official warning may, following consideration of correspondence from any Person served with an official warning, withdraw the official warning.
- (e) An official warning does not affect the power of an Authorised Officer to:
  - (i) commence proceedings against a Person to whom an official warning was given;
  - (ii) serve an infringement notice;
  - (iii) take no further action; or
  - (iv) take any other specified action permitted under this Local Law which established an offence.

## **25.13 Power to impound**

If an Authorised Officer finds anything that contravenes this Local Law he or she may arrange for that thing to be removed to a place appointed or approved by Council or a Delegated Officer, and be retained there subject to this Local Law.

## **25.14 Impounded items**

- (a) Where a thing has been impounded in accordance with clause 25.13, Council or a Delegated Officer must notify each of the Persons who appear to be the owner of that thing, if known, that the thing has been impounded.
- (b) Each notice must be served in accordance with this Local Law.

## **25.15 Surrender of items**

A thing that has been impounded in accordance with clause 25.13 must be surrendered to the owner or any Person acting on the owner's behalf if:

- (a) in the event of a claim being made by a Person acting on the owner's behalf, satisfactory evidence is provided of that Person's authority from the owner; and
- (b) in any event, there is paid to Council a fee fixed by Council or a Delegated Officer.


**25.16 Power to sell, destroy or give away**

- (a) If 28 days elapse from the removal of a thing to a place appointed or approved by Council or a Delegated Officer, and the thing is not surrendered to:
  - (i) its owner; or
  - (ii) a Person acting on its owner's behalfCouncil or a Delegated Officer may:
  - (iii) destroy the item;
  - (iv) deliver the item to a municipal tip; or
  - (v) sell the item by auction, public tender or private sale.
- (b) Where an item is sold in accordance with clause 25.16 and the net proceeds from sale exceed the amount expended by Council in exercising its powers under this Local Law, the moneys must be:
  - (i) held in trust by Council; and
  - (ii) paid to any person who, in the opinion of Council or a Delegated Officer, is entitled to the moneys or a portion of the moneys.
- (c) If the moneys are not claimed by any person within one (1) year of their receipt, they become Council's absolutely and may be expended.

This Local Law was made on ..... 14 AUGUST 2012 .....

The **COMMON SEAL** of **YARRA RANGES** )  
**SHIRE COUNCIL** was hereunto affixed )  
in accordance with Local Law No 1 of 2012 )  
in the presence of: )



  
.....

Chief Executive Officer / ~~Senior Officer Authorised by the Chief Executive Officer~~