



RURAL CITY OF
WANGARATTA

LOCAL LAW NO. 1 OF 2018

Community Amenity

**Adopted by Council on 17 July 2018
In operation from 3 August 2018**

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PART A – INTRODUCTORY

1. TITLE

This is the Rural City of Wangaratta Local Law No. 1 – Community Amenity Local Law and is referred to below as “this Local Law”.

2. PURPOSE OF THIS LOCAL LAW

The purpose of this Local Law is to:

- 2.1 revoke Local Law No. 1 of 2014 – Community Amenity (Amendment) and Local Law No. 3 of 2009 – Murray to the Mountains Rail Trail made by Council;
- 2.2 provide for and assure equitable, orderly and enjoyable use by people of community facilities, including roads;
- 2.3 protect Council Property and other community assets from loss or unnecessary or avoidable damage;
- 2.4 support provision by Council of a safe, clean and healthy environment in areas under its control and management; and
- 2.5 provide generally for the peace, order and good government of the Municipal District.

3. ENABLING POWER AND COMMENCEMENT

This Local Law is made under section 111 of the Act and comes into operation on 3 August 2018.

4. DATE THIS LOCAL LAW CEASES OPERATION

Unless this Local Law is revoked sooner, its operation will cease on 3 August 2028.

5. SCOPE AND STATUS OF THIS LOCAL LAW

- 5.1 This Local Law operates throughout the Municipal District.
- 5.2 Upon this Local Law coming into operation, Local Law No. 1 of 2014 – Community Amenity (Amendment) and Local Law No. 3 of 2009 – Murray to the Mountains Rail Trail made by Council are revoked.

6. DEFINITIONS

In this Local Law, unless inconsistent with the context:

Act means the Local Government Act 1989;

Advertising Sign means any placard, board, sign, card or banner, whether portable or affixed or attached to any land, building or vehicle which:

- 6.1 provides information about a business or industry;
- 6.2 advertises goods, a service, an event or a competition; or
- 6.3 contains information or a promotion of a political nature;

Animal includes every species of quadruped and every species of bird and every species of reptile;

Applicant means a person who applies for a Permit under this Local Law;

Appropriate Fee means the fee determined by Council from time to time in respect of a particular matter in accordance with this Local Law;

Approved Toilet System means an existing toilet facility connected to a sewerage or a temporary effluent system that does not cause odours or detriment to the amenity of the area in which the Site is located and is kept in a clean and sanitary condition at all times;

Asset means any:

- 6.1 Road;
- 6.2 drain;
- 6.3 drainage infrastructure;
- 6.4 street tree;
- 6.5 street sign; or
- 6.6 other property vested in or under the control of Council;

Asset Protection Permit means a Permit issued by Council under Clause 32 of this Local Law;

Asset Protection Permit Bond means a sum of money the amount of which has been determined by Council or an Authorised Officer after taking account of:

- 6.1 the nature of the Building Works;
- 6.2 likely costs that would be incurred for repairs to Council Infrastructure Assets if damage does occur to them, during or as a result of the Building Works;
- 6.3 requirements which are commonly applied in comparable situations; and

6.4 any relevant Commonwealth or State government legislation or policy directives;

Assistance Dog has the same meaning as in the *Equal Opportunity Act 2010*;

Authorised Officer means a person appointed by Council to be an Authorised Officer under section 224 of the Act;

Barbeque means a structure or device designed or constructed for the exclusive purpose of cooking food in the open air for human consumption;

Bicycle Path has the same meaning as in the *Road Safety Road Rules 2009*;

Building Waste Container means a waste container of a size and shape that is appropriate for the deposit of waste generated during Building Works which has solid walls and a lid that can be closed securely at all times;

Building Works includes:

6.1 any works with a value of \$10,000 or more with respect to the construction, demolition, renovation, alteration or removal of, or to, any building, structure or land or any work for which a permit is required under the *Building Act 1993* or any other legislation (including this Local Law); and

6.2 the relocation or removal of a building and/or structure irrespective of the value of the works;

Bulk Rubbish Container means a bin, skip or other container used for the deposit of waste (including trade waste, building waste and other bulk waste) but excludes a Garbage Bin used in connection with Council's waste or garbage collection service;

Charity Donation Bin means a container designed to receive used clothing and other household items for reuse or resale for charitable purposes;

Chief Executive Officer means the person appointed to, or acting in, the position of Chief Executive Officer of Council;

Class of Persons means all persons sharing a particular attribute, characteristic or other feature determined or described by Council from time to time for the purposes of clause 97.2 of this Local Law, and may include officers and members of the Country Fire Authority and other Service Authorities;

Clause means a clause of this Local Law;

Commercial Area means any part of the Municipal District which is zoned 'Commercial', including land which is zoned 'Mixed Use', 'Commercial 1' and 'Commercial 2', under the Municipal Planning Scheme;

Construction Work means building works or earthworks for which no permit under the *Building Act 1993* is required;

Council means the Rural City of Wangaratta;

Council Infrastructure Asset means any physical asset owned by, vested in or under the care, control or management of Council, including but not limited to any

Road, drain, tree, vegetation, pavement, kerb, street furniture, sign, pole, light, batter or retaining wall;

Council Land means any land, including a road reserve, owned by, vested in or under the care, control or management of Council, other than a Road;

Council Property includes any Road, Council Land, Council Infrastructure Asset and building or other structure, fixture, fitting, equipment or furnishing or other such asset, which is owned by or under the control or care or management of Council;

Droving of Livestock means the driving of Livestock from one location to another within or through the Municipal District for the purpose of:

- 6.1 changing their grazing area;
- 6.2 sale; or
- 6.3 relocation after sale;

across Council Land or Roads but does not include Movement of Livestock;

Floating Vessel means any kayak, canoe, boat, yacht, raft, tyre tube or any other object that can carry a person on or in water;

Floodlighting means any lighting designed for the purpose of providing exterior floodlighting for recreation, entertainment, sporting, security, car parking, advertising or display purposes and providing lighting output greater than 4,000 lumens;

Garbage Bin means a receptacle supplied to a premises by Council for the purposes of collecting and disposing of household, commercial or industrial waste;

Grazing of Livestock means the use of a road within part of the Municipal District, as determined by Council from time to time, for the purpose of grazing livestock but does not include Droving of Livestock or Movement of Livestock;

Hard Waste means any substance or article Prescribed from time to time to be Hard Waste for the purposes of this Local Law;

Heavy Vehicle means a vehicle with a GVM of 4.5 tonnes or more;

Home Delivery means the delivery of goods or services to an Owner or Occupier of land, where the delivery takes place, and is completed, on that land;

Household Organics means organic waste, primarily from the kitchen, including egg shells, vegetable and fruit peels and cooked leftovers and meats, including bones;

Household Organics Bin means a receptacle supplied to a premises by Council for the purposes of collecting and disposing of Household Organics;

Incinerator means a structure, device or contraption (not enclosed in a building), which is:

- 6.1 used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance;

6.2 not licensed or otherwise subject to control under the provisions of any Act; and

6.3 not a Barbeque;

Industrial Area means any part of the Municipal District which is zoned 'Industrial', including land which is 'Industrial 1' under the Municipal Planning Scheme;

Infringement Notice means a notice prepared in accordance with Clause 102 of this Local Law;

Itinerant Trading means selling, or offering for sale, goods or services from a temporary location or from place to place or from a vehicle or other form of transport;

Licensed Premises means any hotel, tavern, bottle shop, bar, nightclub or other premises from which Liquor is sold;

Liquor has the same meaning as in the *Liquor Control Reform Act 1998*;

Litter Device means an apparatus designed for the purpose of removing animal excrement, and includes a paper or plastic bag;

Livestock has the same meaning as in the *Impounding of Livestock Act 1994*;

Local Law means a local law of Council;

Motor Home means any vehicle designed for temporary accommodation purposes, including campervans;

Movement of Livestock means individual or regular movements of Livestock:

6.1 as part of normal farm management operations of a single farming enterprise;

6.2 from one property to another within the Municipal District; and

6.3 at a rate not less than one kilometre per hour in the direction of movement between the properties,

where:

6.4 the properties concerned are occupied by a single farming enterprise; and

6.5 the movement is completed on the same day that it commenced;

Municipal Building means any building owned, occupied or under the control of Council;

Municipal District means the area proclaimed under the Act to be under the local government of Council;

Municipal Planning Scheme means a planning scheme approved under the *Planning and Environment Act 1987* that operates within the Municipal District;

Municipal Reserve means any Council Land dedicated or used for environmental, cultural, recreational or entertainment purposes;

Notice to Comply is a notice prepared in accordance with Clause 96 of this Local Law;

Occupier means the person or persons in charge, or having the management or control, of or legally entitled to occupy any land (including premises) and includes, in relation to land which has a lot entitlement or lot liability in respect of common property, the Owners Corporation created on the registration of a Plan of Subdivision affecting that land;

Offence includes an offence against or a breach of a provision of any Local Law, or a breach of a Permit, or a Notice to Comply or a direction issued under a Local Law or Permit;

Owner, in relation to any land (including a Site or premises), means the person who is registered on the certificate of title as the owner of the land or the person who is or is entitled to exercise any rights of ownership of the land;

Penalty Unit has the same meaning as in the *Sentencing Act 1991*;

Permit means a permit authorised or required under this Local Law, and issued in accordance with the provisions of this Local Law;

Permit Holder means a person or persons in whose name or names a Permit has been issued;

Poultry means any chicken, duck, fowl, and other domestic fowl or similar sized bird but does not include a Rooster;

Property Address means the road name and street number allocated to a property within the Municipal District and may include, where there are multiple tenements within a property or multiple properties at one street number, the use of lot or unit numbers;

Public Place has the same meaning as in section 3 of the *Summary Offences Act 1966*;

Putrescible Refuse means refuse that is liable to rot or become putrid and most commonly relates to normal household scraps;

Premises means the whole or part of any land, a lot on a plan of subdivision and a building or building under construction;

Rail Trail means the multi-use recreational pathway developed on a former railway easement and set aside for recreational use and those areas of Council owned or managed land that links those areas of former railway reserve, forming a continuous sealed bike path from Wangaratta to Everton;

Rail Trail Reserve means the Crown land reserved for Public Purposes (Rail Trail) in the various Parishes in the Municipal Districts of Council and the Alpine and Indigo Shires as follows:

- 6.1 Bright and Porepunkah as shown red on the plan marked LEGL./98-52;
- 6.2 Barwidgee and Porepunkah as shown red on the plan marked LEGL./97-191;

- 6.3 Barwidgee as shown red on the plan marked LEGL./97-190;
- 6.4 Myrtleford as shown red on the three plans marked LEGL./96-461;
- 6.5 Myrtleford and Murrungee as shown red on the plan marked LEGL./99-41;
- 6.6 Murrungee as shown red on the plan marked LEGL./99-40;
- 6.7 Everton and Murrungee as shown red on the plan marked LEGL./99-39;
- 6.8 Everton and Murrungee as shown red on the plan marked LEGL./99-42;
- 6.9 Beechworth as shown red on the plan marked LEGL./99-43;
- 6.10 Tarrawingee and Everton as shown red on the plan marked LEGL./99-38;
- 6.11 Carraragarmungee as shown red on the plan marked LEGL./99-37;
- 6.12 Carraragarmungee (Bowser)– additions to Murray to the Mountains Rail Trail 2007421 as shown red on Map C,

lodged in the Land Registry;

Recreational Vehicle includes any mini bike, trail bike, quad bike, motor bike, motor car, motor scooter, go cart and any other vehicle propelled by a motor which is used for recreational purposes and not registered under the Road Safety Act 1986 but does not include a motorised wheelchair or other aid used by persons with disabilities or motorised vehicles used for farming purposes;

Recyclable Material means any substance or article Prescribed from time to time to be Recyclable Material for the purposes of this Local Law;

Recyclables Bin means a receptacle supplied to premises by Council for the purposes of collecting and disposing of premises Recyclable Material;

Residential Area means any part of the Municipal District which is zoned 'Residential', including land which is zoned 'General Residential', 'Neighbourhood Residential', 'Residential Growth', 'Low Density Residential', and 'Township' and for this local law also includes 'Rural Living' under the Municipal Planning Scheme;

Retailer means a person who sells goods by retail and provides Shopping Trolleys to his or her customers;

Road has the same meaning as in the Act;

Road Management Plan means a Road Management Plan made under the *Road Management Act 2004*;

Rubbish Hopper means a purpose built container designed to receive trade waste which is emptied by mechanical means and includes wheel mounted and tray bin type hoppers;

Scare Gun means any type of noise generating device designed and used for the purpose of scaring birds from land;

Schedule means a Schedule to this Local Law;

Sediment Fencing/Barriers means a filter fence, sausage or other similar control measure, that prevents sediment, slurry, silt, soil and other materials being transported off Site by water;

Senior Officer has the same meaning as in the Act;

Separated Footpath has the same meaning as in the *Road Safety Road Rules 2009*;

Service Authority means any public authority or corporation other than Council, whether a government department, a government agency, a statutory body or a private sector corporation, responsible for providing infrastructure or utility facilities or services to the community;

Shared Pathway means an area open to the public (except a separated footpath) that is designated for, or has as one of its main uses, use by both the riders of bicycles and pedestrians, and includes a length of path for use by both bicycle riders and pedestrians beginning at a shared path sign or shared path road marking and ending at the nearest of the following:

- 6.1 an end shared path sign or end shared path road marking;
- 6.2 a no bicycles sign or no bicycles road marking;
- 6.3 a bicycle path sign or bicycles path road marking;
- 6.4 a Road (except a road related area);
- 6.5 the end of the path;

Shopping Trolley means a vehicle used primarily for the carriage of goods by customers of a Retailer;

Site means the land where Building Works are occurring and includes any land to which Building Works relate;

Site Fencing means a fence around the entire perimeter of a Site at the commencement and for the duration of the Building Works:

- 6.1 at a height of not less than eighteen hundred (1800) millimetres;
- 6.2 capable of preventing litter from being transported from a building Site by wind;
- 6.3 capable of preventing unauthorised persons accessing the Site; and
- 6.4 having not more than one access opening fitted with gates, which is located to correspond with the vehicle crossing for the Site;

Site Identification means a sign that is at least six hundred (600) millimetres in height and four hundred (400) millimetres in length, is erected at the entrance to the Site and is clearly visible from the road, and includes on the sign the:

- 6.1 lot number, as described on the Certificate of Title relevant to the land;
- 6.2 name of the Owner, developer or builder responsible for the Site;

- 6.3 relevant building surveyor's contact name and phone number; and
- 6.4 twenty-four (24) hour contact telephone number or numbers for the Owner, developer or builder responsible for the Site;

Stormwater System means the system that provides for the conveyance of stormwater runoff including kerb and channel, open channels, underground pipe systems and natural waterways;

Trade Waste means any refuse, rubbish, slops or other waste matter arising from or generated by any trade, industry or commercial undertaking;

Vehicle means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes a bicycle or other pedal-powered vehicle, trailer, tram-car and air-cushion vehicle but does not include railway locomotive, railway rolling stock or a Recreational Vehicle; and

VicRoads means the Roads Corporation.

7. INTERPRETATION

- 7.1 Where a word or phrase has a particular meaning, other grammatical forms of that word or phrase have the same meaning.
- 7.2 Unless the context suggests otherwise, where a penalty appears at the foot of a subclause it applies not only to an offence against that provision but to any other offence against the Clause. For example, the penalty appearing after Clause 19.6 applies to offences against Clause 19.1, 19.2, 19.3, 19.5 and 19.6. The penalty appearing after Clause 53.10 likewise applies to offences against Clause 53.1, 53.6 and 53.7.

PART B – MUNICIPAL BUILDINGS

8. OPENING HOURS OF MUNICIPAL BUILDINGS

- 8.1 Municipal Buildings will be open to the public during such hours as Council determines.
- 8.2 Council may at any time close a Municipal Building or any part of it for any purpose, including for maintenance and cleaning.

9. USE OF MUNICIPAL BUILDINGS

- 9.1 Council may from time to time determine conditions of, or limitations on, use of Municipal Buildings that apply to any Municipal Building or class of Municipal Buildings specified.
- 9.2 A person entering a Municipal Building must comply with any conditions of or limitations of use determined under Clause 9.1.
- 9.3 Conditions of, or limitations on, use of any Municipal Building determined by Council under Clause 9.1 must be displayed at the Municipal Building.
- 9.4 Without limiting the scope of Clause 9.2, a person must not, without a Permit:
 - 9.4.1 organise any function or event in a Municipal Building;
 - 9.4.2 hawk, sell, offer for sale or hire out or supply or promote any goods, articles or services in a Municipal Building;
 - 9.4.3 enter or remain in a Municipal Building otherwise than during the hours in which the Municipal Building is open to the public;
 - 9.4.4 enter or remain in any part of a Municipal Building not set aside for public use;
 - 9.4.5 enter a Municipal Building other than through an entrance provided for the purpose of public entry;
 - 9.4.6 bring any Animal, other than an Assistance Dog, into, or allow any Animal under his or her control to remain in, a Municipal Building;
 - 9.4.7 bring any Vehicle or Recreational Vehicle into a Municipal Building, except for:
 - 9.4.7.1 a pram or pusher being used by a parent to transport a child;
 - 9.4.8 a wheelchair being used by a person with a disability; or
 - 9.4.8.1 a motorised mobility aid used by people with limited mobility, provided access is available and that no damage to the Municipal Building will result from the use of the mobility aid;

- 9.4.9 bring or deliver Liquor to a Municipal Building;
- 9.4.10 bring into a Municipal Building any substance, liquid or powder which may:
 - 9.4.10.1 be dangerous, injurious or offensive to health;
 - 9.4.10.2 have the potential to foul, pollute or soil any part of the Municipal Building; or
 - 9.4.10.3 cause discomfort to any persons; or
- 9.4.11 ride a bicycle, scooter, skateboard, or in-line or roller skates, or similar device.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

10. PROHIBITION ON ENTRY TO A MUNICIPAL BUILDING

A person must not:

- 10.1 when directed by an Authorised Officer, verbally or in writing, enter or remain in a Municipal Building while speaking or acting in a manner that is threatening or harassing or which interferes with the lawful duty of a member of Council staff or the lawful enjoyment of the Municipal Building by other users or occupants; or
- 10.2 re-enter a Municipal Building within twenty four (24) hours after being directed by an Authorised Officer to leave for any breach of a Local Law.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

11. CONDUCT IN A MUNICIPAL BUILDING

A person in a Municipal Building must not:

- 11.1 deposit any litter except in receptacles provided for that purpose; or
- 11.2 obstruct, hinder or interfere with any person employed by, or acting on behalf of, Council at the Municipal Building in the performance of his or her duties.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART C – MUNICIPAL RESERVES

12. OPENING HOURS OF MUNICIPAL RESERVES

- 12.1 Subject to any Council determination to the contrary under Clause 13.1, Municipal Reserves will be open to the public on any day, free of charge.
- 12.2 Council may at any time close a Municipal Reserve or any part of it for any purpose, including for maintenance.

13. USE OF MUNICIPAL RESERVES

- 13.1 Council may from time to time determine conditions of, or limitations on, use that apply to any Municipal Reserve or a class of Municipal Reserves, including:
 - 13.1.1 times during which the Municipal Reserve will be open to the public; and
 - 13.1.2 fees payable for entry onto a Municipal Reserve.
- 13.2 A person entering a Municipal Reserve must comply with any conditions of, or limitations on, use determined under Clause 13.1.
- 13.3 Conditions of, or limitations on, use determined by Council under Clause 13.1 for any Municipal Reserve must be displayed in a conspicuous place on the Municipal Reserve.
- 13.4 Without limiting the scope of Clause 13.2, a person must not, without a Permit:
 - 13.4.1 organise any function or sports event in a Municipal Reserve;
 - 13.4.2 being a person other than a player, official or competitor at any organised sports event, or an Authorised Officer, enter or remain within or upon the playing arena of a Municipal Reserve during the progress of such event;
 - 13.4.3 hawk, sell, offer for sale or hire out or supply or promote any goods (including a vehicle), articles or services in a Municipal Reserve;
 - 13.4.4 conduct any business, including personal training, in a Municipal Reserve;
 - 13.4.5 enter or remain in a Municipal Reserve otherwise than during the hours which the Municipal Reserve is open to the public;
 - 13.4.6 enter or remain in any part of a Municipal Reserve not set aside for public use;

- 13.4.7 drive, ride or park any Vehicle or Recreational Vehicle, other than a bicycle, scooter, skateboard, or in-line or roller skates, within a Municipal Reserve, except on a designated access Road or in a designated parking area within a Municipal Reserve, except for:
 - 13.4.7.1 a pram or pusher being used to transport a child;
 - 13.4.7.2 a wheelchair being used by a person with a disability; or
 - 13.4.7.3 a motorised mobility aid used by people with limited mobility, provided access is available and that no damage to the building will result from the use of the mobility aid;
- 13.4.8 ride a bicycle, scooter, skateboard, or in-line or roller skates within a Municipal Reserve, unless it is done so that it does not interfere with the use or enjoyment of the Municipal Reserve or any part thereof by any other person;
- 13.4.9 use or permit to be used any remote controlled aeroplane, car, boat, aircraft (excluding kites) or similar apparatus in or over a Municipal Reserve, unless it is done so that it does not interfere with the use or enjoyment of the Municipal Reserve or any part thereof by any other person;
- 13.4.10 swim in, wade through, enter for recreation purposes, or use any Floating Vessel upon, any lake, pond or excavation containing water located on or in a Municipal Reserve;
- 13.4.11 install or permit to be installed a gateway or other means of access to or from a Municipal Reserve;
- 13.4.12 use in any Municipal Reserve any amplifier, musical instrument or sound broadcasting equipment in a manner that is likely to unreasonably disturb other persons;
- 13.4.13 install or erect or place on or in any Municipal Reserve any item, equipment or thing which may damage the Municipal Reserve or interfere with the use or enjoyment of the Municipal Reserve or any part thereof by any other person;
- 13.4.14 bring into a Municipal Reserve any substance, liquid or powder which may:
 - 13.4.14.1 be dangerous or injurious to health; or
 - 13.4.14.2 have the potential to foul, pollute or soil any part of the Municipal Reserve; or
 - 13.4.14.3 cause discomfort to any persons; or
- 13.4.15 except with a Permit, use a Municipal Reserve for an organised sport or activity for which a charge or fee is imposed.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

14. CONDUCT IN A MUNICIPAL RESERVE

A person in any Municipal Reserve must not:

- 14.1 engage in, play or practise golf, archery or any like activity that is likely to interfere with public safety or the use and enjoyment of the Municipal Reserve or any part thereof by any other person;
- 14.2 ride or lead a horse, except in areas designated and signposted for horse riding or leading;
- 14.3 interfere with any structure, notice, building or part thereof, fence, seat, tree or plant;
- 14.4 walk on flower beds or borders, climb steep banks or cliff faces, or enter any prohibited areas delineated as such by Council from time to time;
- 14.5 behave in a disorderly manner;
- 14.6 remain at any time when directed to leave by an Authorised Officer, notwithstanding that a fee or charge for admission may have been paid;
- 14.7 obstruct, hinder or interfere with the duties of any person employed by Council in the performance of his or her duties; or
- 14.8 act contrary to any sign which specifies activities prohibited under a Local Law, or advises of conditions of use applicable under a Local Law.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART D – USE OF COUNCIL LAND AND ROADS

15. ACTIVITIES ON COUNCIL LAND OR ROADS

A person must not, on Council Land or a Road:

- 15.1 act in a manner which unreasonably interferes with the use or enjoyment by any person of the Council Land or Road;
- 15.2 act in a way which endangers any person;
- 15.3 use any lifesaving or firefighting device unless during an emergency;
- 15.4 undertake any unauthorised Building Works or construction activities; or
- 15.5 act contrary to any sign which specifies activities prohibited under a Local Law, or advises of conditions of use applicable under a Local Law.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

16. COLLECTION OF FIREWOOD

A person must not, without a Permit, collect any wood, for the purpose of fuelling a fire or for any other purpose, from any Council Land or Road.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

17. DROVING OF LIVESTOCK

A person must not, without a Permit, undertake Droving of Livestock on Council Land or a Road.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

18. GRAZING OF LIVESTOCK

A person must not, without a Permit, undertake Grazing of Livestock on Council Land or a Road.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

19. STREET ACTIVITIES

- 19.1 A person must not, without a Permit, erect or place on any Road or Council Land a Vehicle, caravan, trailer, (including a vehicle, caravan or trailer being offered for sale), table, stall or other similar structure other than for the legal parking of a Vehicle.

- 19.2 A person must not, without a Permit, undertake Itinerant Trading on any Road, Council Land or Public Place, or from land adjacent to any Road, Council Land or Public Place.
- 19.3 In addition to Clause 19.2, a person must not undertake Itinerant Trading:
- 19.3.1 within 300 metres of a permanent business that is selling the same or a similar product, except as an approved trader being part of a stall, festival or other event approved by Council;
 - 19.3.2 within 500 metres of a festival or other event approved by Council unless expressly permitted by Council;
 - 19.3.3 in a way that obstructs or restricts pedestrian or vehicular traffic;
 - 19.3.4 in a way that obstructs or interferes with entry to or exit from any buildings or land;
 - 19.3.5 in a way that obstructs or restricts the use of any footpath or Road;
 - 19.3.6 in an area other than the area specified by Council in their Permit;
or
 - 19.3.7 in an area designated by Council as belonging to another Itinerant Trader under their Permit.
- 19.4 Clauses 19.2 and 19.3 do not apply to;
- 19.4.1 Home Delivery of:
 - 19.4.1.1 magazines or newspapers;
 - 19.4.1.2 goods purchased at another location; or
 - 19.4.1.3 goods where the delivery has been requested by the Occupier;
 - 19.4.2 the sale of fundraising products by persons duly authorised by an educational, welfare or charity based organisation, cultural or recreational facility or organisation which is established within the municipal district.
- 19.5 A person with the objective of collecting money must not, without a Permit, on any Road or Council Land sing, perform, entertain or play any musical instrument.
- 19.6 A person must not, without a Permit and photo ID, solicit or collect on any Road or on any Council Land or from house to house any gifts of money or subscriptions for any purpose other than fundraising for an educational or registered charitable organisation or a cultural or recreational facility or organisation established within the Municipal District.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

20. ITEMS ON COUNCIL LAND

- 20.1 A person must not, without a Permit or otherwise in accordance with this Local Law, place or keep or allow to be kept any thing, item, structure or goods of any kind on or over a Road or Council Land.
- 20.2 An Owner of any land must ensure that no gate, door or other means of access from that land to a Road or Council Land opens outwards onto a Road or Council Land.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

21. ADVERTISING AND ADVERTISING SIGNS

- 21.1 A person must not, without a Permit, write, deface, place or affix any letter, figure, device, poster, sign or advertisement on any building, fence or other property under the control of or vested in Council.
- 21.2 A person must not, without a Permit, erect or place an Advertising Sign on a Road or Council Land or any Council Property or cause or authorise another person to do so.
- 21.3 A person must not, without a Permit, erect or place any structure, banner or the like, on or across any Council Land or any Road.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

- 21.4 Clauses 21.1, 21.2 and 21.3 do not apply in any case where the relevant activity or act is authorised under a Municipal Planning Scheme or State or Commonwealth legislation.

22. SHOPPING TROLLEYS

A person must not leave a Shopping Trolley on a Road or in a Public Place except in an area designated for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

23. CHARITY DONATION BINS

A person must not, without a Permit, place, cause or allow to be placed a Charity Donation Bin on a Road or Council Land or in any Public Place.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

24. STREET PARTIES, FESTIVALS AND PROCESSIONS

A person must not, without a Permit, conduct, organise or otherwise hold a function in the nature of a street party, street festival or procession on a Road.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

25. FLOODLIGHTING

Where Floodlighting is installed on land which may spill light onto adjoining property, it must be installed so that:

- 25.1 it is shielded with devices to prevent glare causing a nuisance outside the boundary of the site on which the Floodlighting is installed; and
- 25.2 the level of illumination emitted by the Floodlighting does not exceed 8 lux when measured at a height of 1.3 metres and a distance of 1.5 metres from the boundary of the property on which the Floodlighting is installed, whether the illumination is the result of direct, reflected or other incidental light.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

26. SCARE GUNS

- 26.1 A person must not, without a Permit:
 - 26.1.1 operate a Scare Gun within 300 metres of any residence;
 - 26.1.2 on land of four (4) hectares or less containing an orchard or used for another intensive horticultural purpose, operate more than two (2) Scare Guns;
 - 26.1.3 on land of more than four (4) hectares containing an orchard or used for another intensive horticultural purpose, operate more than one (1) Scare Gun per four (4) hectares or part thereof;
 - 26.1.4 operate Scare Guns other than between sunrise and sunset;
 - 26.1.5 activate a Scare Gun at a frequency of less than one shot or, in the case of multiple blast Scare Guns, one round every five (5) minutes; or
 - 26.1.6 in respect of multiple shot Scare Guns capable of up to three (3) blasts, take longer than 30 seconds to complete the firing sequence.
- 26.2 A person must locate a Scare Gun as far as possible from residential premises.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART E – VEHICLES

27. VEHICLES USING ROADS CONTRARY TO RESTRICTED USE SIGNS

If Council exercises its powers under the Act to restrict the use of a Road and erects signs advising of the nature of the restriction, a person must not, without a Permit, contravene any of those restrictions.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

28. USE OF VEHICLES ON COUNCIL LAND

A person must not, without a Permit, use a Vehicle or Recreational Vehicle on any Council Land unless the land has been designated and signposted for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

29. USE OF RECREATIONAL VEHICLES ON PRIVATE LAND

A person must not, without a Permit, use a Recreational Vehicle on any land in a Residential Area.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

30. REPAIRING VEHICLES

30.1 A person must not, without a Permit, paint, service, dismantle or make any major repairs to any Vehicle on any Road or Council Land.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

30.2 Clause 30.1 does not apply to any minor repairs carried out to a Vehicle which has broken down and which are reasonably necessary to allow the Vehicle to be removed under its own propulsion.

31. VEHICLES IN A PUBLIC PLACE

31.1 A person must not allow any Vehicle not currently registered with or having a permit from VicRoads or any other relevant authority to be left standing in any Public Place.

31.2 A person must not allow any trailer, caravan, boat or any other Vehicle unable to move on its own accord to be left standing in any Public Place, other than a Designated Camping Area, for longer than forty-eight (48) hours.

31.3 A person must not abandon, leave or allow to be left in or on a Public Place any Vehicle, including a trailer, caravan, or recreational vehicle, that is derelict to such an extent that it is unable to move under normal means and is in disrepair, whether registered or not.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART F – CONDUCT GENERALLY

32. DAMAGING, DEFACING OR INTERFERING WITH COUNCIL PROPERTY

- 32.1 Subject to Clause 32.2, a person must not alter, destroy, damage, write on, affix anything to, remove, or interfere with any Council Property.
- 32.2 A person must not, without a Permit:
- 32.2.1 plant, remove or interfere with any trees or plants (dead or alive) on or in any Council Land or Road;
 - 32.2.2 alter, destroy, damage or interfere with a water course, ditch, creek, swale, gutter, drain, tunnel, bridge, levee, culvert or fence which belongs to or is under the control of Council;
 - 32.2.3 alter, destroy, damage, interfere with or remove anything belonging to Council in, on or from any Council Land or Road; or
 - 32.2.4 alter, destroy, damage, tamper or interfere with any parking meter or ticket machine.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

33. VEHICLE CROSSINGS

- 33.1 A person must not, without a Permit, install, construct, alter, or reconstruct a vehicle crossing, whether permanent or temporary.
- 33.2 Each point of Vehicle access from any land to a Road must have a properly constructed and maintained vehicle crossing approved by Council.
- 33.3 A person must not, without a Permit, allow any Vehicle to enter or leave any land except by way of a vehicle crossing constructed in accordance with this Clause 33.
- 33.4 Where a vehicle crossing is no longer required, the Owner must remove the vehicle crossing and reinstate the Road to its original condition, to the satisfaction of an Authorised Officer.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

34. CONSUMPTION OF LIQUOR OR POSSESSION IN UNSEALED CONTAINER AND BEHAVIOUR NEAR LICENSED PREMISES

- 34.1 A person must not, without a Permit, on a Road, any Council Land or any open space to which the public have access:
- 34.1.1 consume or ingest any Liquor; or

- 34.1.2 have in their possession a bottle, can, wine cask or other receptacle, which contains Liquor and has been opened.
- 34.2 Clause 34.1 does not apply:
- 34.2.1 to a person in licensed premises or authorised premises under the *Liquor Control Reform Act 1998*; or
- 34.2.2 where the consumption of Liquor is taking place at an organised function conducted with a Permit or as part of a picnic with family and/or friends within a Municipal Reserve between sunrise and sunset, or such other hours as are determined by Council from time to time, provided that no nuisance is being caused in connection with the consumption of the Liquor.
- 34.3 A person:
- 34.3.1 in the course of arriving at or departing from Licensed Premises or any carpark designated for the use of patrons of such Licensed Premises; or
- 34.3.2 who, having departed from Licensed Premises, then remains within a radius of two hundred (200) metres from the Licensed Premises,
- must not behave in a manner which is, or is likely to be, detrimental to the amenity of the neighbourhood.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

35. BICYCLES, SCOOTERS, SKATEBOARDS, IN-LINE AND ROLLER SKATES

- 35.1 Council may designate areas of Council Land other than a road reserve in which the riding of a bicycle, scooter, skateboard, in-line or roller skates or similar device is prohibited.
- 35.2 If Council designates areas under Clause 35.1, it must cause signs to be erected in or on those areas advising of the prohibition.
- 35.3 A person must not ride a bicycle, scooter, a skateboard, or in-line or roller skates or similar device in an area designated by Council under Clause 35.1.
- 35.4 Any person who uses a bicycle, a scooter, a skateboard, in-line or roller skates or a similar device or causes or authorises another person to use any of those items on a Road must ensure that the use does not inconvenience, obstruct, hinder, endanger, alarm or prevent the free passage of any pedestrian or other user of the Road, whether in or on a Vehicle or not.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

- 35.5 This Clause 35 does not apply to a person with a disability or infirmity who is using a motorised mobility aid for its intended purpose.

36. PROPERTY ADDRESS AND NUMBERS

- 36.1 Council may allocate a Property Address to each property in the Municipal District and, from time to time, may make changes to Property Addresses.
- 36.2 For each property that has been allocated a Property Address under Clause 36.1, the Owner must mark the property with the street number allocated, which number must be of sufficient size, in such a position, made of such material and kept in such state of repair as to be clearly readable from the Road, which the property fronts, under all normal lighting conditions.
- 36.3 An Owner or Occupier must not use an address other than a Property Address for any property in the Municipal District.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

37. INCINERATORS AND BURNING

- 37.1 A person must not, without a Permit, light, allow to be lit, or allow to remain alight any fire in the open air or in an Incinerator in a Residential Area, Commercial Area or Industrial Area unless the fire is:
 - 37.1.1 authorised or directed to be lit under the provisions of any Act or Regulations or the Municipal Planning Scheme; or
 - 37.1.2 in a permanent or portable Barbeque that is being used for the exclusive purpose of cooking food in the open air for human consumption; and
 - 37.1.3 appropriately located and managed so as to not cause nuisance to neighbouring properties.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

38. BURNING OF MATERIALS

A person must not, without a Permit, burn any of the following materials in the Municipal District:

- 38.1 plastic;
- 38.2 waste petroleum oil or any waste containing petroleum oil;
- 38.3 paints or empty paint containers;
- 38.4 pressurised cans;
- 38.5 textile fabrics;
- 38.6 rubber;
- 38.7 food waste;

- 38.8 illegal substances; or
- 38.9 any other noxious or offensive material.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

39. CONDITION OF LAND

- 39.1 An Owner or Occupier of any land must not cause or allow his or her land to:
 - 39.1.1 be kept in a manner which is unsightly or detrimental to the general amenity of the area in which the land is located;
 - 39.1.2 be used for storage of such amounts of goods or materials that the amenity or the area is adversely affected, or the land is, or has the potential to become infested, by rats and/or other vermin and pests;
 - 39.1.3 be kept in a manner which is dangerous or likely to cause danger to life or property;
 - 39.1.4 become infested with blackberry or other invasive plants or vermin; or
 - 39.1.5 become a source of offensive odour discernible beyond the land.
- 39.2 An Authorised Officer may direct an Owner to secure the Owner's land to prevent unauthorised entry.
- 39.3 An Owner of land to whom a direction is given under Clause 39.2 must comply with that direction.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

40. VACANT, DILAPIDATED & DANGEROUS PREMISES

- 40.1 An Owner of a vacant building must not cause or allow the vacant building to be kept in a manner to the extent that the exterior of the building:
 - 40.1.1 is in a state of disrepair;
 - 40.1.2 is damaged or defaced;
 - 40.1.3 affects the amenity of the surrounding neighbourhood;
 - 40.1.4 causes the building to be out of conformity with the visual appearance of other buildings in the vicinity; or
 - 40.1.5 is declared in writing by an Authorised Officer to be unsafe.
- 40.2 Before any liability can arise under Clause 40.1.5 details of the declaration must be sent to the Owner of the vacant building providing a reasonable time

for the Owner of the vacant building to carry out or cause to be carried out works which render safe the exterior of the building.

- 40.3 The Owner of a vacant building must ensure that the vacant building is secure to prevent unauthorised entry.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

41. STORAGE OF DANGEROUS OR HAZARDOUS SUBSTANCES ON LAND

An Owner or Occupier of any land must not, without a Permit, cause or allow his or her land to be used for storage of any dangerous or hazardous substances in a manner or in quantities which is or are dangerous or is or are likely to cause danger to life or property.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

42. STORAGE, VEHICLES AND MACHINERY

42.1 A person must not, without a Permit, use any land within a Residential Area or a Commercial Area for the storage of Vehicles or machinery or for the dismantling or breaking up of Vehicles or machinery.

42.2 A person must not, without a Permit, use land which is used or intended to be used primarily for residential purposes for the repair or servicing of any Vehicle other than a Vehicle registered or normally housed at the address of that land.

42.3 Nothing in Clauses 42.1 or 42.2 applies to a person who is using land in a manner permitted under the Municipal Planning Scheme.

42.4 Nothing in Clause 42.1 and 42.2 applies to a person who, for recreational purposes, repairs, services, assembles, dismantles or stores old or second hand Vehicles or machinery provided that such activity is not conducted:

42.4.1 for financial gain or reward;

42.4.2 on more than two (2) Vehicles at any one time such that there are no more than two (2) Vehicles that are not registered with VicRoads on the land at any one time; or

42.4.3 in a manner which is unsightly or detrimental to the general amenity of the area.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

43. SHIPPING CONTAINERS AND TEMPORARY STRUCTURES

A person, must not, without a Permit, place or keep or allow to be kept a shipping container or other like temporary structure on any land which is used or intended to

be used primarily for residential purposes for any period longer than twenty eight (28) days.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

44. INTRUDER ALARMS

44.1 An Owner or Occupier of any premises must not install or permit or allow to be installed or cause to be retained in an active state at or upon any such premises any intruder alarm which emits a noise audible beyond the boundary of the premises, unless such alarm is so constructed or regulated as to ensure that:

44.1.1 whenever a detection device is activated, the intruder alarm is automatically rendered inaudible beyond the boundary of the premises within ten (10) minutes of it being activated; and

44.1.2 the intruder alarm cannot re-activate until the device has been re-set.

44.2 Despite Clause 44.1, an intruder alarm may operate for a further period of up to ten (10) minutes, should another detection device in the same building be activated following the cessation of the alarm noise in accordance with Clause 44.1.1.

44.3 The Owner or Occupier of a premises containing an intruder alarm which does not comply with the requirements of this Clause may be directed by Council to:

44.3.1 adjust or replace the alarm to comply with the requirements; or

44.3.2 permanently disconnect the alarm.

44.4 An Owner or Occupier of premises to which a direction is given under Clause 44.3 must comply with that direction.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

45. CAMPING

45.1 A person must not, without a Permit, camp on Council Land or a Road in a tent, caravan, motor home or any other temporary or makeshift structure other than in a Designated Camping Area.

45.2 A person must not, without a Permit, occupy, place or cause to be placed or use or cause to be used a tent, caravan, motor home or annex on any land other than a Designated Camping Area.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

45.3 Clause 45.2 does not apply to:

- 45.3.1 the storage of a caravan or similar facility on any private property other than a Designated Camping Area, provided that:
 - 45.3.1.1 there is a dwelling on the land; or
 - 45.3.1.2 the caravan, motor home or tent is not set up for ready use as overnight accommodation; and
 - 45.3.1.3 an annex is not attached to caravan or motor home; and
 - 45.3.1.4 the caravan, motor home or tent is not within 6 metres of the front of the land.

- 45.3.2 the reasonable use of a caravan, motor home or tent on private property other than a Designated Camping Area, provided that:
 - 45.3.2.1 there is a dwelling on the land;
 - 45.3.2.2 the occupation does not exceed 28 days;
 - 45.3.2.3 no rent, licence fee or charge is paid by any person in respect of the occupation;
 - 45.3.2.4 the toilet, bathing and laundry facilities provided in the dwelling are made available without charge to the occupant/s of the caravan, motor home or tent;
 - 45.3.2.5 waste water from the caravan, motor home or tent is discharged to an approved waste water system and does not cause a nuisance or an offensive condition; and
 - 45.3.2.6 the caravan, motor home or tent is not located within 6 metres of the front of the property or 1.2 metres of any other boundary of the land, not more than 20 metres from the dwelling and no closer than 30 metres to a watercourse.

46. TREES AND VEGETATION

An Owner or Occupier of land must not allow any tree or part of a tree or any plant or part of a plant or other vegetation to grow on that land, so that it:

- 46.1 overhangs onto or over any footpath, naturestrip or Road abutting that land at a height of less than 2.5 metres from the level of the adjacent footpath or nature strip;
- 46.2 obstructs or impairs the vision of the driver of a Vehicle travelling along a Road adjacent to or near the land or approaching the intersection adjacent to or near the land;
- 46.3 otherwise prejudices the safe and convenient use of any footpath, naturestrip or Road adjacent to or near the land; or

46.4 causes damage to or interference with any:

46.4.1 fixture or other structure in a Road, or on Council Land; or

46.4.2 drain vested in or under the control of Council.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

47. WASP NESTS AND BEES

Upon becoming aware of the existence of:

47.1 a wasp nest; or

47.2 bee hives that are not suitably constructed and maintained, in accordance with any current relevant Code of Practice;

on land, the Owner or Occupier of the land must immediately take steps to cause the nest or hives to be destroyed.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART G – ANIMAL MANAGEMENT

48. LIMITS ON NUMBER OF ANIMALS KEPT

- 48.1 An Owner or Occupier of any land in a Residential Area or a Commercial Area must not, without a Permit, keep or allow to be kept more than three (3) different types of Animals, as listed in Table 1 in this Clause 48, at any time.
- 48.2 Clause 48.1 does not apply to:
- 48.2.1 an Animal Shelter owned or contracted by Council;
 - 48.2.2 a registered Animal Hospital or Veterinary Surgeon Practice;
 - 48.2.3 any Animal keeping permitted by the Municipal Planning Scheme;
or
 - 48.2.4 any Animal in respect of which a Permit has been issued by another public authority.
- 48.3 In addition to the limitations imposed by Clause 48.1, an Owner or Occupier of any land in a Residential Area or Commercial Area must not:
- 48.3.1 without a permit, keep or allow to be kept any more in number for each type of Animal than is set out in Table 1 in this Clause 48, according to the applicable land size; and
 - 48.3.2 keep or allow to be kept any type of Animal that is designated 'Prohibited' in Table 1 in this Clause 48, according to the applicable land size.

TABLE 1

Type of Animal	Land Size (m ²)		
	0-999	1000-3999	4000 and over
Dogs	2	2	2
Cats	2	2	2
Poultry (except Roosters)	3	10	10
Roosters	Prohibited	Prohibited	0
Domestic Birds	5	10	20
Domestic Rabbits	2	4	4
Horse/Donkey or similar	Prohibited	0	1 per 4,000m ²
Cattle	Prohibited	0	1 per 4,000m ²
Sheep	Prohibited	2	2 per 4,000m ²
Goats	Prohibited	2	2 per 4,000m ²

Pigs	Prohibited	Prohibited	1 per 4,000m ²
Other agricultural Animals	Prohibited	2	2 per 4,000m ²
Pigeons	0	0	0
Reptiles	5	5	5

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

49. REMOVAL OF ANIMAL FAECES

49.1 A person in charge of an Animal must:

49.1.1 remove any of that Animal's faeces that is deposited on any Road or Council Land or land owned or occupied by another person; and

49.1.2 dispose of the Animal's faeces in a manner which does not cause any nuisance or health hazard to any person or detriment to the environment.

49.2 A person in charge of an Animal on any Road or Council Land must carry a Litter Device suitable to clean up any faeces left by any Animal under his or her care or control and must produce such device upon being requested to do so by an Authorised Officer.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

50. ANIMAL HOUSING

50.1 The owner of an Animal and the Owner or Occupier of the land on which the Animal is housed must ensure that:

50.1.1 the animal housing is kept in a clean and sanitary condition to the satisfaction of an Authorised Officer;

50.1.2 the size of the enclosure or other form of housing is adequate to house the number of animals;

50.1.3 the animal housing meets the welfare needs of the Animal;

50.1.4 the animal housing is maintained in good repair so as to not cause nuisance to neighbouring premises;

50.1.5 the animal housing is constructed to prevent wastewater from entering into the stormwater system or discharging to adjoining premises; and

50.1.6 the land surrounding the animal housing is kept clear of materials which may harbour vermin.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

51. PROVISION OF EFFECTIVE FENCING TO CONTAIN ANIMALS

The owner of an Animal and/or Livestock and the Owner of the land upon which that Animal is kept must ensure that the land is adequately fenced so as to prevent any and all Animals and/or Livestock being kept on the land from escaping from that land and straying onto any Council Land or Road or otherwise being at large.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

52. POWER TO IMPOUND ADDITIONAL ANIMALS

Where a Magistrate has found a person to be in breach of Clause 48 and a Permit for additional Animals has not been granted, Council may enter the land on which the Animals are being kept and seize and dispose of any Animals being kept on land in breach of Clause 48 for the purpose of sale, re-homing or destruction.

PART H – BUILDING SITE MANAGEMENT

53. PROTECTION OF COUNCIL INFRASTRUCTURE ASSETS DURING BUILDING WORKS

- 53.1 In any case where a building permit has been issued under the *Building Act 1993* or Building Works are about to commence on land, the Owner of the land must, at least seven (7) days before commencing or causing or allowing Building Works to commence on the land:
- 53.1.1 obtain an Asset Protection Permit;
 - 53.1.2 advise Council in writing of any damage that exists to any Council Infrastructure Assets likely to be affected by the Building Works;
 - 53.1.3 pay any Asset Protection Permit fee determined by Council from time to time; and
 - 53.1.4 pay any Asset Protection Permit Bond determined by Council from time to time.
- 53.2 An Asset Protection Permit may require the payment of an Asset Protection Permit Bond and may contain conditions that:
- 53.2.1 require works to be done on or around the Site to protect Council Infrastructure Assets, the health and safety of the public, the environment and the amenity of the area or to be in accordance with the relevant legislative framework; and/or
 - 53.2.2 require entry to and exit from the Site only at designated locations; and/or
 - 53.2.3 address any other matter referred to in this Part.
- 53.3 If Council does not receive advice in writing as required under Clause 53.1.2, it is deemed, for the purposes of Clause 53.5, that there was no existing damage to Council Infrastructure Assets.
- 53.4 As soon as practicable after receiving notice of completion of the Building Works, Council may cause an inspection of Council Infrastructure Assets to be carried out.
- 53.5 If, as a result of any inspection under Clause 53.4, Council considers that the Building Works have damaged Council Infrastructure Assets, Council may:
- 53.5.1 direct the Owner of the Site to repair the damage at the Owner's cost, in accordance with standards specified by Council and within a period of not more than twenty eight (28) days; and/or
 - 53.5.2 initially protect Council's Infrastructure Assets, the cost of which can be recovered from the Asset Protection Permit Bond (if any) and/or the Owner; and/or

- 53.5.3 repair the damage and recover the cost from the Asset Protection Permit Bond (if any) and/or the Owner.
- 53.6 If repair of damaged Council Infrastructure Assets is required under Clause 53.5.1, the Owner must effect the repairs to the standards and within the time specified by Council.
- 53.7 If the work is done under Clause 53.5.2 and/or 53.5.3 and the cost is greater than the amount of the Asset Protection Permit Bond (if any), then the Owner must pay to Council the amount of the shortfall, being the difference between the cost of the repair work and the amount of the Asset Protection Permit Bond.
- 53.8 If the repair work is done under Clause 53.5.2 and/or 53.5.3 and the cost is less than the amount of the Asset Protection Permit Bond (if any), Council must refund the unused portion of the Asset Protection Permit Bond to the person who paid it to Council.
- 53.9 If no Asset Protection Permit Bond is required by Council and repair work is done under Clause 53.5.2 and/or 53.5.3, Council may recover the cost of the work from the Owner.
- 53.10 If, as a result of the inspection under Clause 53.4, Council considers that the Building Works have not damaged Council Infrastructure Assets, Council must refund the entire Asset Protection Permit Bond (if any) to the person who paid it to Council.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

54. CONTAINMENT OF BUILDING SITES

The Owner or Occupier of a Site must ensure that:

- 54.1 the Building Works being carried out on the Site are contained entirely within a Site;
- 54.2 all materials used in the Building Works are contained entirely within the Site;
- 54.3 the Site is provided with Site Fencing; and
- 54.4 gates or access points in the Site Fencing do not open out onto a Road or Council Land.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

55. ENTRY TO BUILDING SITES

The Owner or Occupier of a Site must ensure that:

- 55.1 there is only one point of entry to the Site;

- 55.2 the point of entry to the Site is by way of a vehicle crossing, whether temporary or permanent;
- 55.3 any temporary or permanent vehicle crossing is constructed to the reasonable satisfaction of an Authorised Officer; and
- 55.4 no person enters the Site other than by way of the specified vehicle crossing.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

56. BUILDING SITE IDENTIFICATION

- 56.1 The Owner or Occupier of a Site must ensure that the Site is provided with clearly legible and clean Site Identification.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

57. APPROVED TOILET SYSTEMS

- 57.1 The Owner or Occupier of any land on which Building Works are to occur must ensure that an Approved Toilet System is installed on the land prior to any Building Works commencing and is thereafter maintained to the satisfaction of the Authorised Officer.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

58. BUILDING SITE WASTE

- 58.1 The Owner or Occupier of a Site must ensure that waste produced as a result of Building Works on the Site is:
 - 58.1.1 stored in a Building Waste Container;
 - 58.1.2 contained entirely within the Site;
 - 58.1.3 stored in a manner that does not attract the depositing of waste from sources other than the Site;
 - 58.1.4 stored in a manner that does not cause detriment to the visual amenity of the area in which the Site is located; and
 - 58.1.5 disposed of regularly, and, where that waste is in the form of stormwater, to a legal point of discharge, in accordance with Clause 62.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

59. PEDESTRIAN AND TRAFFIC HAZARDS, AND SAFETY

- 59.1 The Owner or Occupier of a Site must ensure that Building Works on the Site do not cause detriment to pedestrian or vehicular traffic or become unsafe.
- 59.2 For the purposes of Clause 59.1, detriment to pedestrians or vehicular traffic will be deemed to be caused by, and Building Works will be deemed to have become unsafe if:
- 59.2.1 there is mud or debris on a Road including on a footpath or naturestrip;
 - 59.2.2 there are excavation works on or immediately adjacent to a Road that are unauthorised or pose a risk to persons or property; or
 - 59.2.3 where pedestrians are diverted from a footpath, they are not provided with:
 - 59.2.3.1 adequate signage advising of that diversion; and/or
 - 59.2.3.2 an alternative route on a stable surface, protected from traffic.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

60. SOIL STOCKPILES

- 60.1 The Owner or Occupier of a Site must ensure that soil that is stripped from the Site is stockpiled on the Site for re-use or is transported to a legal place of disposal.
- 60.2 Where soil is stockpiled on the Site, it must, unless otherwise advised by an Authorised Officer, be protected by Sediment Fencing/Barriers to ensure the retention of silt, sand and waterborne particles within the stockpile.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

61. AMENITY CONTROLS

- 61.1 The Owner or Occupier of a Site must ensure that activities on the Site (including Building Works) do not damage or cause detriment to the natural or built environment in which the Site is located.
- 61.2 A person in charge of a Site must manage any dust or air pollutants from the Site to minimise detriment to the amenity of the area.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

62. DRAINS

- 62.1 The Owner or Occupier of a Site must ensure that Building Works on the Site do not cause detriment to any Stormwater System or Asset.
- 62.2 For the purposes of Clause 62.1 detriment to a Stormwater System or Asset occurs if:
- 62.2.1 material, equipment, litter, waste, mud, silt, sand or another product emanating from Building Works enters or interferes with the Stormwater System or Asset; or
- 62.2.2 there is any alteration to or interference with a Stormwater System or Asset for which a Permit has not been issued.
- 62.3 The Owner or Occupier of a Site must ensure that the Site is provided with Sediment/Fencing Barriers that ensure the retention of silt and soil on site, and the retention of other water borne particles and pollutants for later transportation to a legal place of disposal.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

63. BUILDING NOISE

- 63.1 A person must not carry out Building Works or allow Building Works to be carried out on any land between the hours of 8:00 pm and 7:00 am Monday to Friday and between the hours of 6:00pm and 7:00am on Saturdays, and between the hours of 6:00 pm and 9:00 am Sundays and Public Holidays.
- 63.2 Clause 63.1 does not apply if the Building Works or other works to be carried out will be more than two hundred and fifty (250) metres from any occupied residential dwelling and produce noise that is not of sufficient volume, intensity, duration or frequency to disturb people in such dwellings.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART I – WASTE MANAGEMENT

64. DOMESTIC, COMMERCIAL AND INDUSTRIAL GARBAGE SERVICES

- 64.1 The Occupier of every premises to which Council supplies a Garbage Bin must:
- 64.1.1 only deposit in the Garbage Bin waste other than those items referred to within Clause 64.1.2;
 - 64.1.2 not deposit in the Garbage Bin:
 - 64.1.2.1 waste derived from building construction or demolition activities;
 - 64.1.2.2 household organics that can be recycled using Council's bin-based household organics service;
 - 64.1.2.3 hot or burning ashes;
 - 64.1.2.4 medical or infectious waste;
 - 64.1.2.5 volatile, explosive or flammable substances;
 - 64.1.2.6 dust, fine particle waste, polystyrene beads or similar unless securely wrapped;
 - 64.1.2.7 oil, paint, solvents or any material or item which may damage the bin;
 - 64.1.2.8 wire of any description; or
 - 64.1.2.9 heavy materials or items that cause the weight of the bin to be more than forty (40) kilograms;
 - 64.1.3 not leave any Garbage Bin or other form of domestic service garbage bin (whether it be subject to a Council or private service collection) out on Council Property for more than one (1) day before or after a collection day unless permitted to do so by an Authorised Officer;
 - 64.1.4 not leave any commercial or industrial service garbage bin (whether it be subject to a Council or private service collection) out on Council Property for more than twelve (12) hours before or after a collection day unless permitted to do so by an Authorised Officer;
 - 64.1.5 when placing the Garbage Bin out for collection of the contents, place it in a position the details of which are specified in advice given by public notice or to the Occupier by Council, in front of the

premises, or in an alternative location that Council may specify, that allows a safe and efficient collection by a service vehicle;

- 64.1.6 ensure that the Garbage Bin is not removed from the, or transferred to other, premises except for collection of refuse in accordance with Clause 64.1.5;
 - 64.1.7 maintain the Garbage Bin in a clean and sanitary condition;
 - 64.1.8 ensure that the area where the Garbage Bin is kept on the property is kept clean and in a sanitary condition;
 - 64.1.9 ensure that the lid of the Garbage Bin is closed other than when refuse is being deposited in it; and
 - 64.1.10 ensure that the Garbage Bin is not overfilled such that the lid cannot be completely closed down.
- 64.2 A person must not remove or interfere with a Garbage Bin or its contents when the Garbage Bin is left on a Road, or at any other collection point, without written authority from an Authorised Officer.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

- 64.3 Clause 64.2 does not apply to a person authorised by Council to remove garbage, or an employee of such person in the course of his or her employment, the person placing the garbage out for collection or an Authorised Officer in the course of his or her employment.

65. RECYCLABLE MATERIALS SERVICE

- 65.1 The Occupier of every premises to which Council supplies a Recyclables Bin must:
- 65.1.1 deposit only loose, not bagged or wrapped, Recyclable Material in such bin;
 - 65.1.2 only place Recyclable Material in the Recyclables Bin;
 - 65.1.3 not leave any Recyclables Bin or a bin used for a private recyclables service collection out on Council Property for more than one (1) day before or after a collection day unless permitted to do so by an Authorised Officer;
 - 65.1.4 when placing the Recyclables Bin out for collection of the contents, place it in a position the details of which are specified in advice given by public notice or to the Occupier by Council, in front of the premises, or in an alternative location that Council may specify, that allows safe and efficient collection by a service Vehicle;
 - 65.1.5 ensure that the Recyclables Bin is not removed from the, or transferred to other, premises except for collection of Recyclable Material, in accordance with Clause 65.1.4;

- 65.1.6 maintain the Recyclables Bin in a clean and sanitary condition;
 - 65.1.7 ensure that the area where the Recyclables Bin is kept on the premises is kept clean and in a sanitary condition;
 - 65.1.8 ensure that the lid of the Recyclables Bin is closed other than when Recyclable Material is being deposited in it; and
 - 65.1.9 ensure that the Recyclables Bin is not overfilled such that the lid cannot be completely closed down.
- 65.2 A person must not remove or interfere with any Recyclables Bin or its contents when the Recyclables Bin is left on a Road, or at any other collection point, without the written authority of an Authorised Officer.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

- 65.3 Clause 65.2 does not apply to a person authorised by Council to remove Recyclable Material, or an employee of such a person in the course of his or her employment, the person placing the Recyclable Material out for collection or an Authorised Officer in the course of his or her employment.

66. HOUSEHOLD ORGANICS SERVICE

- 66.1 The Occupier of every premises to which Council supplies a Household Organics Bin must:
- 66.1.1 only deposit household Organics in the Household Organics Bin which are either loose or contained within newspaper or bin liners approved by Council;
 - 66.1.2 not leave any Household Organics Bin or a bin used for a private organics service collection out on Council Property for more than one (1) day before or after a collection day unless permitted to do so by an Authorised Officer;
 - 66.1.3 when placing the Household Organics Bin for collection, place it in a position the details of which are specified in advice by public notice or to the Occupier by Council, in front of the premises, or in an alternative location that Council may specify, that allows safe and efficient collection by the service Vehicle; and
 - 66.1.4 ensure that the Household Organics Bin is not removed from the, or transferred to other, premises except for the collection of the material in accordance with Clause 66.1.3;
 - 66.1.5 maintain the Household Organics Bin in a clean and sanitary condition;
 - 66.1.6 ensure that the area where the Household Organics Bin is kept on the property is kept clean and in a sanitary condition;

66.1.7 ensure that the lid of the Household Organics Bin is closed other than when garden organics are being deposited in it; and

66.1.8 ensure that the Household Organics Bin is not overfilled such that the lid cannot be completely closed down.

66.2 A person must not remove or interfere with any Household Organics Bin or its contents when the Household Organics Bin is left on a Road, or at any other collection point, without the written authority of an Authorised Officer.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

66.3 Clause 66.2 does not apply to a person authorised by Council to collect or remove Household Organics, or an employee of such a person in the course of his or her employment, the person placing the Household Organics Bin out for collection or an Authorised Officer in the course of his or her employment.

67. BULK RUBBISH CONTAINERS

67.1 A person must not, without a Permit, place, cause or allow to be placed a Bulk Rubbish Container on a Road or Council Land or in any Public Place.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

68. USE OF DRAINS AND LEGAL POINTS OF DISCHARGE

68.1 A person must not, without a Permit:

68.1.1 connect to;

68.1.2 alter;

68.1.3 interfere with;

68.1.4 excavate;

68.1.5 damage;

68.1.6 destroy; or

68.1.7 obstruct the function of,

any drain under the control of Council unless Council has certified a plan of subdivision which necessitates that activity or otherwise permitted that activity under another Act.

68.2 The Owner or Occupier of land must ensure that:

68.2.1 each building and/or structure on the land is connected to a legal point of discharge nominated by Council through a properly

constructed and maintained drainage system to the satisfaction of an Authorised Officer; and

68.2.2 the land, including surface water, is adequately drained to the satisfaction of an Authorised Officer and does not cause a nuisance to adjoining property.

68.3 The Owner or Occupier of land must ensure that all drainage servicing his or her land is maintained in sound working order and does not cause damage or nuisance to any other property, including Council Property.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART J – MURRAY TO THE MOUNTAINS RAIL TRAIL

69. APPLICATION

- 69.1 This Part applies to land and activities within the Rail Trail Reserve.
- 69.2 This Part does not apply to:
- 69.2.1 an Authorised Officer or an employee of Council when acting in the course of their duties; or
 - 69.2.2 a person acting in accordance with a lease, license, tenancy or permit granted or issued under an Act that is not subject to this Part, to the extent that the activities authorised by that lease, license, tenancy or permit are inconsistent with this Local Law.
- 69.3 Council may exempt any person from the operation of any or all of this Part.
- 69.4 Parts K and L of this Local Law apply to land and activities within the Rail Trail Reserve.

70. POWERS OF COUNCIL OVER THE RAIL TRAIL

- 70.1 Council may determine that a specified area or areas in the Rail Trail Reserve be set aside and permitted to be used for one or more of the following uses –
- 70.1.1 protection or management of Flora, Fauna, geological or geomorphological features or cultural values;
 - 70.1.2 re-establishment or planting of Vegetation;
 - 70.1.3 amenities or facilities for public use;
 - 70.1.4 camping;
 - 70.1.5 the playing of games or sport;
 - 70.1.6 the lighting or maintaining of fires;
 - 70.1.7 the riding, driving or leading of a horse or a mule or a donkey or a camel or the drawing of a Vehicle by any of those animals;
 - 70.1.8 the parking of any Vehicle or Vehicles of a particular class or classes;
 - 70.1.9 the passage of any Vehicle or Vehicles of a particular class or classes;
 - 70.1.10 a Bicycle Path;
 - 70.1.11 a Footway;

- 70.1.12 a Separated Footpath;
 - 70.1.13 a Shared Pathway;
 - 70.1.14 the conducting of a community event;
 - 70.1.15 a commercial venture;
 - 70.1.16 for the Droving and/or Grazing of Livestock (Exceptional circumstances only);
 - 70.1.17 to cut and bale grass for hay; and
 - 70.1.18 to conduct fuel reduction burns.
- 70.2 A determination under Clause 70.1 must specify the times or periods during which the areas set aside may be used, the use for which the area has, or areas have, been set aside and any conditions of use.
- 70.3 If Council has determined that an area be set aside under Clause 70.1, it must cause a notice to be displayed in a conspicuous place in such a manner that the notice is reasonably likely to be seen by the persons about to enter the areas, indicating –
- 70.3.1 the area(s) so set aside;
 - 70.3.2 the use for which the area has, or the areas have, been set aside; and
 - 70.3.3 the conditions on, and times or periods during, which the use is permitted.
- 70.4 Council may determine that a specified area or areas in the Rail Trail Reserve be set aside as an area where access or entry is prohibited or restricted for –
- 70.4.1 a person who is in possession of Liquor;
 - 70.4.2 a person who is in possession of any glass;
 - 70.4.3 reasons of public safety;
 - 70.4.4 the protection of Flora, Fauna, geological or geomorphological features or cultural values;
 - 70.4.5 a person who is control of an animal including horses, camels, donkeys and other animals; and
 - 70.4.6 the Droving of Livestock.
- 70.5 A determination under Clause 70.4 must specify –
- 70.5.1 the times or periods during which entry or access is prohibited or restricted to an area or the conditions of entry to that area; and

- 70.5.2 the reasons why entry or access is prohibited or restricted.
- 70.6 If Council has determined that an area be set aside under Clause 70.4, it must cause a notice to be displayed in a conspicuous place in such a manner that the notice is reasonably likely to be seen by the persons about to enter the areas, indicating –
- 70.6.1 the areas so set aside;
- 70.6.2 any conditions of entry to the areas; and
- 70.6.3 the times or periods during which entry or access is prohibited or restricted.
- 70.7 Council may from time to time fix fees payable for entry to any part of the Rail Trail or the use of any facilities within the Rail Trail.
- 70.8 If Council has determined that fees are payable under Clause 70.8, it must cause notice of those fees to be displayed in a conspicuous place in such a manner that the notice is reasonably likely to be seen by the persons about to enter the areas.
- 70.9 A person must not:
- 70.9.1 enter any part of the Rail Trail; or
- 70.9.2 use any facilities within the Rail Trail,
- without paying any applicable fees, or otherwise in contravention of any conditions, fixed by Council.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

71. VEHICLES

- 71.1 A person must not, without a Permit:
- 71.1.1 use, control or drive a Vehicle; or
- 71.1.2 park or leave a Vehicle standing,
- unless in an area set aside by Council for that purpose.
- PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS**
- 71.2 Clause 71.1 does not apply to –
- 71.2.1 a bicycle, unicycle, tricycle or scooter;
- 71.2.2 a battery powered bicycle or scooter with a power source of less than 200 watts;
- 71.2.3 a wheelchair being used by a person with a disability;

71.2.4 a motorised mobility aid used by people with limited mobility, provided that no damage to the Rail Trail will result from the use of the mobility aid and the maximum speed travelled by the mobility aid does not exceed 20km/per hour; or

71.2.5 any motorised Vehicle used in any part of the Rail Trail Reserve signed as a Shared Zone, provided that the maximum speed travelled by that Vehicle does not exceed 20km/per hour and all traffic signals are obeyed.

72. AIRCRAFT, HELICOPTERS AND AIRBORNE CRAFT

A person must not, without a Permit, launch, fly, land, control or operate any model aircraft, model helicopter, aircraft, helicopter, glider, hang glider or similar flying machine, kite, hot air balloon or parachute.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

73. CAMPING

A person must not, without a Permit, camp within the Rail Trail Reserve unless in an area set aside by Council for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

74. FIRE

74.1 A person must not, without a Permit, light or maintain a fire unless –

74.1.1 at a time and during a period when the lighting of fires is not prohibited under any Act; and

74.1.2 in a place provided by Council for that purpose;

74.1.3 in an area set aside by Council for that purpose.

74.2 A person must not leave unextinguished or unattended a fire which that person has lit or maintained.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

75. ERECTING OR USING BUILDINGS AND STRUCTURES

A person must not, without a Permit –

75.1 erect or place any building or structure, including a fence; or

75.2 enter, occupy or use the whole or any part of any building or structure except a building or structure set aside by Council for that purpose and in accordance with any applicable conditions.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

76. GAMES OR SPORTS

A person must not, without a Permit, engage in any game or sport unless in an area set aside by Council for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

77. ORGANISED FUNCTION, FETE OR PUBLIC MEETING

A person must not, without a Permit, participate in an organised function, concert, festival, tour, fete or public meeting or similar event unless in an area set aside by Council for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

78. PUBLIC ADDRESS

A person must not, without a Permit, preach or deliver an address or use any amplifier, public address system, loud hailer or similar device.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

79. COMMERCIAL ACTIVITIES

A person must not, without a Permit –

- 79.1 sell or offer any article for sale;
- 79.2 ply any Vehicle for hire or carry any passengers for fee or reward;
- 79.3 conduct any school or provide any form of instruction for gain;
- 79.4 display or advertise for sale, trade or hire any article, device, service or thing;
- 79.5 solicit or collect money or orders for goods, services or other purposes;
- 79.6 take part in or advertise any entertainment for gain;
- 79.7 give out, distribute, erect, leave, set up or display any handbill, placard, notice, pamphlet, book, paper, advertising matter or any like thing;
- 79.8 offer for hire any article, device or thing;
- 79.9 conduct a tour for gain or for commercial purposes; or
- 79.10 cultivate and/or plant any crops,

unless in an area set aside by Council for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

80. MACHINERY AND POWER TOOLS

A person must not, without a Permit, operate any portable or stationary generator, air-compressor, chainsaw, oxy-acetylene or electrical cutting or welding apparatus or other machinery in the Rail Trail Area.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

81. BICYCLE PATHS AND FOOTPATHS

A person must not, without a Permit, enter or use a Bicycle Path, Footpath, Separated Footpath or Shared Pathway unless in an area set aside by Council for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

82. HORSES

A person must not, without a Permit, ride, drive or lead a horse, mule, donkey or camel, whether in a vehicle or not, within the Rail Trail Reserve unless in an area set aside by Council for that purpose.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

83. LIVESTOCK

A person must not, without a Permit:

83.1 undertake Droving of Livestock or Grazing of Livestock; or

83.2 erect any temporary or permanent fencing with respect to such activities.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

84. HAY MAKING

A person must not, without a Permit, cut and bale hay.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

85. FIRE MINIMISATION

A person must not, without a Permit, undertake fuel reduction burning.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

86. NATURAL, CULTURAL AND OTHER ASSETS

86.1 A person must not:

86.1.1 take, cut, damage, displace, deface or interfere with any timber, tree, shrub, plant, wildflower or other vegetation;

86.1.2 enter any area which is set aside by Council for the:

- 86.1.2.1 re-establishment or planting of trees, shrubs, grass or other vegetation; or
- 86.1.2.2 protection of flora or fauna, geological or geomorphological features or cultural values;
- 86.1.3 plant or knowingly introduce any seed, tree, shrub, fern or other vegetation or any part of any tree, shrub or other vegetation;
- 86.1.4 take, destroy or damage any lair or nest or take any fauna or its lair or nest or take any skeletal remains;
- 86.1.5 move or interfere with any sign, notice-board, equipment, seat, table, gate, post, fence, bridge, facility, building or structure;
- 86.1.6 take any stone including any soil, sand or gravel or bricks from bridge or drainage structures; or
- 86.1.7 disturb the soil for activities such as cropping.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

- 86.2 Clause 86.1 does not apply to a person acting in accordance with a lease, license, permit or other authority under the *Extractive Industries Development Act 1995*, the *Mineral Resources (Sustainable Development) Act 1990* or the *Petroleum Act 1998*.

87. USE OF AMENITY OR FACILITY

A person must not enter or use an amenity or facility set aside for use of persons of the opposite gender unless the person is a child under the age of 6 years who is accompanied by an adult of that gender.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

88. GATES

A person must leave any gate open except where the gate is already open, or otherwise in accordance with any directions displayed by Council.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

89. FIREARMS AND TRAPS

A person must not within the Rail Trail Reserve possess or carry or use any firearm, trap or snare.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

PART K – LOCAL LAW PERMITS

90. PERMIT APPLICATIONS AND FEES

- 90.1 An application for a Permit under this Local Law must be in a form determined by Council from time to time.
- 90.2 An application must be accompanied by any fee fixed by Council in accordance with Clauses 90.3 and 90.4.
- 90.3 Council may, from time to time by resolution, determine fees that must be paid by the Applicant for a Permit.
- 90.4 In fixing a fee or fees under this Clause 90, Council may take into account:
- 90.4.1 the recovery of costs which are incurred by it in processing the application and/or the issue of the Permit and/or likely to be incurred in monitoring compliance with the Permit or any condition in the Permit;
 - 90.4.2 the capacity of likely applicants to pay the fee; and
 - 90.4.3 Commonwealth and State Government legislation or policy directives.
- 90.5 Council may require a person making application for a Permit to give public notice of such application.
- 90.6 Where a Permit is issued for a standard period that applies to all such Permits, Council may reduce the normal fee by fifty (50) per cent if the period remaining is less than half of that standard period.
- 90.7 Council may waive, reduce or alter any fee or charge if the financial circumstances of the Applicant are such as to warrant such action.
- 90.8 A person who makes any false representation or declaration or who omits any relevant information from the application for a Permit, whether verbally or in writing, is guilty of an Offence.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

91. ISSUING OR REFUSING PERMITS

- 91.1 In determining whether to issue a Permit and, if a Permit is to be issued, the scope and nature of conditions that will apply to it, Council may take into account the following where relevant:
- 91.1.1 the health and safety of the public;
 - 91.1.2 the amenity of the Municipal District;
 - 91.1.3 the impacts on other persons or their property;

- 91.1.4 the extent to which the granting of the Permit might affect the activities or enjoyment of another person or group;
 - 91.1.5 the need to protect Council or Service Authority assets or infrastructure from damage;
 - 91.1.6 legislation and policy directives of the Commonwealth and State Governments;
 - 91.1.7 the need for work to occur which is authorised by Commonwealth or State Government legislation, or by Council or a Service Authority;
 - 91.1.8 any submission or comments that may be received in respect of the application;
 - 91.1.9 any policy or guideline adopted by Council relating to the subject matter of the application for the Permit, including, but not limited to, the policies incorporated into this Local Law by virtue of Clause 96; and
 - 91.1.10 any other matter that Council deems relevant.
- 91.2 Council may decide:
- 91.2.1 to issue a Permit;
 - 91.2.2 to issue a Permit subject to conditions; or
 - 91.2.3 to refuse to issue a Permit.
- 91.3 Where Council has refused to issue a Permit, the person seeking the Permit has fourteen (14) days after receiving a notice of refusal of permit Clause 91.2.3, or such other additional time determined by Council, to provide written reasons to Council as to why the Permit should not be refused and the notice of refusal must specify that right.
- 91.4 If a written submission is received by Council under Clause 91.3 within the specified period, the information provided shall be considered and, if permitted by Council, the person seeking the Permit will be given an opportunity to be heard by Council or Council's delegate and any such verbal submissions will also be considered.

92. BREACH OF PERMIT CONDITIONS

A person who fails to comply with a Permit or any condition of a Permit is guilty of an Offence.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

93. CANCELLATION OF PERMITS

- 93.1 A Permit may be cancelled at any time if, in the opinion of Council or an Authorised Officer, there has been a:
- 93.1.1 significant change in circumstances relevant to the Permit or any material misstatement, omission or concealment in relation to the application for the Permit; or
 - 93.1.2 failure to comply with any condition or conditions subject to which the Permit was issued.
- 93.2 If it is proposed that a Permit be cancelled under Clause 93.1, notice in writing must be given to:
- 93.2.1 the Permit Holder; and
 - 93.2.2 if the Permit relates to an activity at a particular property and that person is not the Owner of the property, the Owner.
- 93.3 A Permit Holder and, if applicable, an Owner have fourteen (14) days after receiving the notice under Clause 93.2, or such other additional time determined by Council, to provide written reasons to Council as to why the Permit should not be cancelled and the notice under Clause 93.2 must specify that right.
- 93.4 If a written submission is received by Council under Clause 93.3 within the specified period, the information provided shall be considered and the Permit cannot be cancelled unless the Permit Holder and, if applicable, the Owner, have been given an opportunity to be heard by Council or Council's delegate and any such verbal submissions have also been considered.
- 93.5 Where it is proposed that a Permit be cancelled and the circumstances are such that the activity authorised should, in the opinion of Council, cease immediately due to the likelihood that if it continues there will be:
- 93.5.1 adverse effects on the environment, the amenity of the area, or the health or safety of any person, or property; or
 - 93.5.2 damage to property or infrastructure assets of Council or any Service Authority,
- then the Permit may be suspended immediately, pending consideration of any written or verbal submissions under Clause 93.4. For the purposes of this Clause 93.5, the Permit Holder must, for the duration of the suspension, cease all activities or things that would otherwise be allowed by the Permit.

94. CORRECTION OF PERMITS

- 94.1 Council may correct any Permit in relation to:
- 94.1.1 a clerical mistake or other error arising unintentionally or an omission; or

94.1.2 an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the Permit.

94.2 Council must give notice of any correction of a Permit to the Permit Holder.

95. APPLICATION OF LOCAL LAWS TO SERVICE AUTHORITIES

95.1 If a Permit is required, then any Service Authority which can be bound by this or any Local Law is required to obtain such Permit.

95.2 Any Service Authority undertaking work on Council Land or Council Infrastructure Assets must obtain the consent of Council prior to commencement of the activity, unless specifically exempted by legislation.

PART L – OTHER ADMINISTRATIVE AND ENFORCEMENT MATTERS

96. INCORPORATION OF POLICIES

96.1 The following Policies are incorporated into this Local Law:

96.1.1 Local Law Policy LLP11 Droving of Livestock;

96.1.2 Local Law Policy LLP12 Grazing of Livestock; and

96.1.3 Local Law Policy LLP23 Using Footpaths.

97. EXEMPTIONS

97.1 No Permit is required under this Local Law where a person undertakes an activity or does any act or thing pursuant to and in accordance with a lease, licence or some other form of written consent given by Council or an Authorised Officer.

97.2 Council may otherwise exempt a person or Class of Persons from the operation of any or all of this Local Law, generally or in a particular instance, by giving written notice of that exemption to the person or Class of Persons.

98. NOTICE TO COMPLY

98.1 Any Authorised Officer may, by serving a Notice to Comply, direct any Owner or Occupier of land or other relevant person to remedy any situation which may constitute a breach of this Local Law.

98.2 A person who fails to observe any requirement specified in a Notice to Comply is guilty of an Offence.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

99. POWER OF AN AUTHORISED OFFICER TO ACT IN URGENT CIRCUMSTANCES

99.1 In urgent circumstances arising as a result of a failure to comply with this Local Law, an Authorised Officer may take action to remove, remedy or rectify a situation without first serving a Notice to Comply, provided that:

99.1.1 it appears to the Authorised Officer that a breach of a Local Law is likely to occur, is occurring or has occurred;

99.1.2 the Authorised Officer considers the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a Notice to Comply may place a person, animal, property or thing at risk or in danger; and

99.1.3 wherever practicable, the prior consent of the Chief Executive Officer is obtained.

- 99.2 In deciding whether circumstances are urgent, an Authorised Officer must take into consideration, to the extent relevant, whether:
- 99.2.1 it is practicable to contact:
- 99.2.1.1 the person by whose default, permission or sufferance the situation has arisen; or
- 99.2.1.2 the Owner or the Occupier of the land affected; and
- 99.2.2 there is an urgent risk or threat to public health, public safety, the environment or animal welfare.
- 99.3 The action taken by an Authorised Officer under this Clause 99 must not extend beyond what is necessary to cause the immediate abatement of or minimise the risk or danger involved.
- 99.4 An Authorised Officer who takes action under this Clause 99 must ensure that, as soon as practicable:
- 99.4.1 details of the circumstances and remedying action are forwarded to the person in breach of the provision of the Local Law in respect of which the action was taken; and
- 99.4.2 a report of the action taken is submitted to the Chief Executive Officer.
- 99.5 Any costs incurred by Council to remove, remedy or rectify a situation under this Clause 99 may be recovered by Council from the person responsible.

100. PROCEDURE FOR AN AUTHORISED OFFICER TO IMPOUND

- 100.1 An Authorised Officer may impound any item, Animal, object or thing found to be in breach of a Permit condition, a Notice to Comply, or of any Clause in this Local Law.
- 100.2 Where any item, Animal, object or thing has been impounded under Clause 100, Council or an Authorised Officer must serve written notice of the impounding personally, by pre-paid mail or by email on the person who appears to be the Owner of the impounded item, Animal, object or thing wherever it is practicable to do so.
- 100.3 A notice of the impounding must specify:
- 100.3.1 the item;
- 100.3.2 the place and time when it was impounded;
- 100.3.3 the fee payable for its retrieval;
- 100.3.4 the date by which the item must be retrieved (which must be not less than fourteen (14) days after the date on which the notice is issued);
- 100.3.5 that the item will be sold or disposed of in accordance with this Clause 100, if not so retrieved; and

- 100.3.6 the fact that all costs associated with the impounding of the item may be recovered by Council from the Owner or person responsible for the item.
- 100.4 In any case where the name or the whereabouts of the Owner of, or person responsible for, the impounded item is unknown, the Authorised Officer must take reasonable steps to ascertain that information.
- 100.5 An impounded item must be surrendered to its Owner, or a person acting on behalf and with the authority of its Owner, if:
- 100.5.1 evidence to the satisfaction of the Authorised Officer is provided of the Owner's right to the item;
- 100.5.2 any fee, determined by Council from time to time, is paid; and
- 100.5.3 any charge for cost recovery, is paid.
- 100.6 If an impounded item is not retrieved by the date specified in the notice, an Authorised Officer may take action to dispose of it according to the following principles:
- 100.6.1 where the item has no saleable value it may be disposed of in any manner considered appropriate in the circumstances; and
- 100.6.2 where the item has some saleable value, it may be disposed of by public auction or tender, or by private sale (if public auction or tender fails to produce an offer or an auction or tender is inappropriate), but if no sale results from Council's efforts, the item may be disposed of in any manner which Council sees fit.
- 100.7 Proceeds of any sale of an impounded item, less any costs incurred by Council in impounding the item and complying with the requirements of this Local Law, are to be held by Council pending any claim by the Owner. If the Owner at any time provides reasonable proof of entitlement to the net proceeds of the sale of an impounded item, within six (6) months of the sale, payment of such must be made to that person.
- 100.8 If no valid claim is made with the six (6) months period under Clause 100.7, any surplus proceeds of the sale may be used for municipal purposes.

101. OFFENCES

- 101.1 A person who contravenes or fails to comply with:
- 101.1.1 any provision of a Local Law;
- 101.1.2 any condition contained in a Permit issued under a Local Law; or
- 101.1.3 a Notice to Comply issued under Clause 96,
- is guilty of an Offence.
- 101.2 For a person who is guilty of an Offence under Clause 101.1, the penalty will be:

101.2.1 the specific penalty stated under any Clause of a Local Law or in cases where there is no specific penalty, the penalty specified under Clause 104;

101.2.2 a further penalty of one (1) Penalty Unit for each day after conviction during which the contravention continues; and

101.2.3 upon conviction for a second or subsequent Offence, double such specific penalty or twenty (20) Penalty Units, whichever is the lesser.

102. INFRINGEMENT NOTICES

102.1 An Authorised Officer may issue an Infringement Notice for an Offence, as an alternative to prosecution.

102.2 If an Offence is a continuing Offence, then an Infringement Notice may be issued on each day that the Offence continues.

102.3 A person issued with an Infringement Notice is entitled to apply to have the Infringement Notice internally reviewed by way of written objection to Council before the date on which the infringement penalty is due.

103. INFRINGEMENT NOTICE PENALTIES

Where an Infringement Notice is issued under this Local Law, the penalty payable in respect of the Infringement Notice will be:

103.1 as set out in the table in Schedule 1; or

103.2 where the penalty is not listed – two (2) Penalty Units.

104. PENALTIES UNDER THIS LOCAL LAW GENERALLY

104.1 In cases where a penalty for an Offence is not specified in this Local Law, maximum penalties of two (2) Penalty Units will apply for a first Offence and twenty (20) Penalty Units or the highest number of maximum Penalty Units allowed for by the Act (whichever is the greater) for a second or subsequent Offence.

104.2 In cases where a maximum twenty (20) Penalty Units is specified in this Local Law, the maximum Penalty Units capable of being imposed will be twenty (20) Penalty Units or the highest maximum number of Penalty Units allowed for by the Act (whichever is the greater).

105. OFFENCES IN RELATION TO AN AUTHORISED OFFICER

105.1 A person must not give information that the person knows or believes to be false to an Authorised Officer who is performing a function under this Local Law.

- 105.2 A person must not mislead, deceive or omit any relevant information from a member of Council staff acting in accordance with their duties.

PENALTY: MAXIMUM TWENTY (20) PENALTY UNITS

SCHEDULE 1

**PENALTIES PRESCRIBED UNDER CLAUSE 75 OF THIS LOCAL LAW, FOR
INFRINGEMENT NOTICE PURPOSES**

RELEVANT CLAUSE		Penalty for a natural person	Penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise
9	Use of Municipal Buildings	Two (2) Penalty Units	--
10	Prohibition on entry to a Municipal Building	Two (2) Penalty Units	--
11	Conduct in a Municipal Building	Two (2) Penalty Units	--
13	Use of Municipal Reserves	Two (2) Penalty Units	--
14	Conduct in a Municipal Reserve	Two (2) Penalty Units	--
15	Activities on Council Land or Roads	Two (2) Penalty Units	--
16	Collection of Firewood	Two (2) Penalty Units	
17	Droving of Livestock	Two (2) Penalty Units	--
18	Grazing of Livestock	Two (2) Penalty Units	--
19	Street Activities	One (1) Penalty Unit	--
20	Items on Council Land	Two (2) Penalty Units	--
21	Advertising and Advertising Signs	Two (2) Penalty Units	--
22	Shopping trolleys	Two (2) Penalty Units	--
23	Charity Donation Bins	Two (2) Penalty Units	--

RELEVANT CLAUSE		Penalty for a natural person	Penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise
24	Street parties, festivals and processions	One (1) Penalty Unit	--
25	Floodlighting	Two (2) Penalty Units	Five (5) Penalty Units
26	Scare Guns	Two (2) Penalty Units	Five (5) Penalty Units
27	Vehicles using Roads contrary to restricted use signs	Two (2) Penalty Units	--
28	Use of Vehicles on Council Land	Two (2) Penalty Units	--
29	Use of Recreational Vehicles on private land	Two (2) Penalty Units	--
30	Repairing Vehicles	Two (2) Penalty Units	--
31	Vehicles in a Public Place	Two (2) Penalty Units	--
32	Damaging, defacing or interfering with Council Property	Four (4) Penalty Units	--
33	Vehicle crossings	Two (2) Penalty Units	--
34	Consumption of Liquor or possession in unsealed container and behaviour near Licensed Premises	Three (3) Penalty Units	--
35	Bicycles, scooters, skateboards, in-line and roller skates	One (1) Penalty Unit	--
36	Property address and numbers	Two (2) Penalty Units	--
37	Incinerators and burning	Five (5) Penalty Units	--
38	Burning of materials	Five (5) Penalty Units	

RELEVANT CLAUSE		Penalty for a natural person	Penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise
39	Condition of land	Five (5) Penalty Units	--
40	Vacant, Dilapidated & Dangerous Premises	Five (5) Penalty Units	Ten (10) Penalty Units
41	Storage of dangerous or hazardous substances on land	Five (5) Penalty Units	--
42	Storage, vehicles and machinery	Two (2) Penalty Units	--
43	Shipping containers and temporary structures	Two (2) Penalty Units	--
44	Intruder alarms	Two (2) Penalty Units	--
45	Camping	One (1) Penalty Unit	--
46	Trees and vegetation	Two (2) Penalty Units	--
47	Wasp nests and bees	Two (2) Penalty Units	--
48	Limits on number of animals kept	Two (2) Penalty Units	--
49	Removal of animal faeces	One (1) Penalty Unit	--
50	Animal housing	Two (2) Penalty Units	--
51	Provision of effective fencing to contain animals	Two (2) Penalty Units	--
53	Protection of Council Infrastructure Assets	Five (5) Penalty Units	Ten (10) Penalty Units
54	Containment of building sites	Five (5) Penalty Units	Ten (10) Penalty Units
55	Entry to building sites	Five (5) Penalty Units	Ten (10) Penalty Units

RELEVANT CLAUSE		Penalty for a natural person	Penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise
56	Building site identification	One (1) Penalty Unit	Five (5) Penalty Units
57	Approved toilet systems	Five (5) Penalty Units	Ten (10) Penalty Units
58	Building site waste	Five (5) Penalty Units	Ten (10) Penalty Units
59	Pedestrian and traffic hazards, and safety	Five (5) Penalty Units	Ten (10) Penalty Units
60	Soil stockpiles	Five (5) Penalty Units	Ten (10) Penalty Units
61	Amenity controls	Five (5) Penalty Units	Ten (10) Penalty Units
62	Drains	Five (5) Penalty Units	Ten (10) Penalty Units
63	Building or industrial noise	Two (2) Penalty Units	Ten (10) Penalty Units
64	Domestic, commercial and industrial garbage services	Two (2) Penalty Units	--
65	Recyclable materials service	Two (2) Penalty Units	--
66	Household organics service	Two (2) Penalty Units	--
67	Bulk Rubbish Containers	Two (2) Penalty Units	--
68	Use of drains and legal points of discharge	Ten (10) Penalty Units	--
71	Vehicles on the Rail Trail Reserve	Two (2) Penalty Units	--
72	Aircraft, helicopters and airborne craft on the Rail Trail Reserve	Two (2) Penalty Units	--
73	Camping on the Rail Trail Reserve	Two (2) Penalty Units	--

RELEVANT CLAUSE		Penalty for a natural person	Penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise
74	Fire in the Rail Trail Reserve	Five (5) Penalty Units	--
75	Erecting or using buildings and structures on the Rail Trail Reserve	Two (2) Penalty Units	--
76	Games or sports on the Rail Trail Reserve	Two (2) Penalty Units	--
77	Organised functions on the Rail Trail Reserve	Two (2) Penalty Units	--
78	Public address systems on the Rail Trail Reserve	Two (2) Penalty Units	--
79	Commercial activities on the Rail Trail Reserve	Two (2) Penalty Units	Ten (10) Penalty Units
80	Machinery and power tools on the Rail Trail Reserve	Two (2) Penalty Units	--
81	Bicycle Paths and footpaths on the Rail Trail Reserve	Two (2) Penalty Units	--
82	Horses on the Rail Trail Reserve	Two (2) Penalty Units	--
83	Livestock on the Rail Trail Reserve	Two (2) Penalty Units	--
84	Hay making on the Rail Trail Reserve	Two (2) Penalty Units	--
85	Fire minimisation on the Rail Trail Reserve	Two (2) Penalty Units	--
86	Natural, cultural and other assets on the Rail Trail Reserve	Two (2) Penalty Units	--
87	Use of amenities on the Rail Trail Reserve	Two (2) Penalty Units	--
88	Gates on the Rail Trail Reserve	Two (2) Penalty Units	--
89	Firearms and traps on the Rail Trail Reserve	Five (5) Penalty Units	--

RELEVANT CLAUSE		Penalty for a natural person	Penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise
90.8	False representation to Council	Two (2) Penalty Units	--
92	Breach of Permit conditions	Five (5) Penalty Units	--
98.2	Non-compliance with Notice to Comply	Five (5) Penalty Units	Ten (10) Penalty Units
105.1	Giving false information to an Authorised Officer	Five (5) Penalty Units	--
105.2	Misleading or deceiving Council staff	Five (5) Penalty Units	--