# VERSION CONTROL

<table>
<thead>
<tr>
<th>No.</th>
<th>Date</th>
<th>Comment</th>
<th>File Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>18/04/2012</td>
<td>Final reviewed version adopted by Council</td>
<td>12.05.040</td>
</tr>
<tr>
<td>2</td>
<td>02/09/2013</td>
<td>Amended to include Smoke Free Zones Policy</td>
<td>12.05.040</td>
</tr>
<tr>
<td>3</td>
<td>09/01/2014</td>
<td>Amended to include Smoke Free Zones maps and Roadside Trading policy and maps</td>
<td>12.05.040</td>
</tr>
</tbody>
</table>
LOCAL LAW NO. 1
‘Community Amenity’ 2012

April 2012

With Amended Schedules - January 2014

PREAMBLE

Gannawarra Shire Council’s Local Laws are designed to secure community safety, protect public assets and enhance community amenity, whether in townships or rural areas. The Local Laws embrace best practice local law making by embodying the principles of accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity and transparency. The Local Laws are also consistent with the principles of justice and fairness. Extensive community consultation has been undertaken in the preparation of this Local Law.
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1. **TITLE**

This Local Law is the GANNAWARA SHIRE COUNCIL Local Law No. 1 – ‘Community Amenity’ and is referred to below as ‘this Local Law’.

2. **OBJECTIVES OF THIS LOCAL LAW**

The objectives of this Local Law are to:

1. secure community safety;
2. protect public assets;
3. enhance community amenity;
4. embrace best practice local law making principles of accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity and transparency;
5. be consistent with the Council’s overall vision, strategies and policies, in particular, to assist the Council in maintaining a vibrant, caring and prosperous community offering social, economic and environmental sustainability for all by:
   a. representing community interests and providing leadership in an open and accountable way;
   b. protecting and enhancing the natural and built environment for future generations;
   c. promoting sustainable business development and employment opportunities;
   d. enhancing the overall health and well-being of the community; and
   e. ensuring Council’s assets and infrastructure are provided and managed in an appropriate, affordable and fair manner.
6. provide for the administration of the Council’s powers and functions; and
7. revoke redundant Local Law No.1 ‘Community Amenity’ 2010.

3. **AUTHORISING PROVISIONS**

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

4. **COMMENCEMENT**

This Local Law operates from the day following its making.
5. **DATE THIS LOCAL LAW CEASES OPERATION**

Unless this Local Law is revoked sooner, its operation will cease on the tenth anniversary of its making.

6. **REVOCATION OF OTHER LOCAL LAWS**

The following Local Laws of the Council are revoked:

Local Law 1 ‘Community Amenity’ 2010.

7. **SCOPE OF THIS LOCAL LAW**

   (1) This Local Law applies to the whole of the Municipal District except where it is apparent from its wording that a clause or schedule applies to a specific area.

   (2) Where this Local Law applies to a Road, it applies to all parts of the Road.

   (3) The provisions of this Local Law apply to the extent that they are not inconsistent with any Act or Regulation applicable to the Council or its Municipal District.

   (4) Where this Local Law prohibits any act, matter or thing or provides that such act, matter or thing can only be done or exist with a permit, that prohibition or provision will not apply if the act, matter or thing can be done or can exist by reason of the Municipal Planning Scheme.

   (5) References to any land in this Local Law include buildings and other structures permanently affixed to the land and any land covered with water.

8. **HOW TO READ THIS LOCAL LAW, GUIDELINES AND INCORPORATED DOCUMENTS**

Parts 1 to 10 of this Local Law set out the provisions for meeting the objectives of this Local Law. Part 11 (Schedule 1) sets out the Discretion Guidelines to which the Council and its staff must have regard in exercising discretions under this Local Law. Part 12 (Schedule 2) sets out Council Policies and other documents incorporated into this Local Law. Part 13 (Schedule 3) sets out permit conditions applicable to permits issued under this Local Law. Part 14 (Schedule 4) sets out Council’s standard forms included in this Local Law and Part 15 (Schedule 5) sets out a summary of maximum penalties and infringement notice penalties.

Reference is also made throughout this Local Law to the following Acts, Regulations, Rules and other documents as amended from time to time:

   (1) Australian Standard 4970-2009: Protection of Trees on Development Sites (2009);

   (2) Building Act 1993;

   (3) Catchment and Land Protection Act 1994;

   (4) Catchment and Land Protection Regulations 2002;
(5) *Country Fire Authority Act* 1958;
(6) *Crown Land (Reserves) Act* 1978;
(7) *Disability Discrimination Act* 1992 (Cth);
(8) *Domestic Animals Act* 1994;
(9) *Firearms Act* 1996;
(10) *Food Act* 1984;
(11) *Gambling Regulation Act* 2003;
(12) *Geographic Place Names Act* 1998;
(13) *Impounding of Livestock Act* 1994;
(14) *Infringements Act* 2006;
(15) *Land Act* 1958;
(16) *Liquor Control Reform Act* 1998;
(17) *Local Government Act* 1989;
(18) *Livestock Disease Control Act* 1994;
(19) *Monetary Units Act* 2004;
(20) *Planning and Environment Act* 1987;
(21) *Prevention of Cruelty to Animals Act* 1986;
(22) *Public Health and Wellbeing Act* 2008;
(23) *Road Management Act* 2004;
(24) *Road Safety Act* 1986;
(25) *Road Safety Road Rules* 2009;
(26) *Sentencing Act* 1991;
(27) *Summary Offences Act* 1966;
(28) *Tobacco Act* 1987;
(29) *Vic Roads Code of Practice for Placement of Waste Bins on Roadsides* *(Vic Roads Publication No. 00623)* 2001; and
(30) *Victorian Government Gazette.*

If a provision of any document incorporated by, or referred to, in this Local Law is inconsistent with any provision in this Local Law (excluding State and Commonwealth Legislation and the Regulations made under that Legislation and any relevant Municipal Planning Scheme), the provision in this Local Law prevails.
9. **DEFINITIONS**

In this Local Law, unless the context or subject-matter indicates otherwise, definitions are as in the *Local Government Act* 1989, indicated by the words ‘as in the Act’. Other words and phrases have the respective meanings assigned:

<table>
<thead>
<tr>
<th>WORDS AND PHRASES</th>
<th>MEANING OR EXTENDED MEANING</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Act</strong></td>
<td>Means the <em>Local Government Act</em> 1989.</td>
</tr>
<tr>
<td><strong>Advertising Sign</strong></td>
<td>Means any board, notice, structure, banner or other similar device used for the purposes of soliciting sales or notifying people of the presence of an adjacent property or other address, whether real, internet-based or otherwise electronic and where goods or services may be obtained.</td>
</tr>
<tr>
<td><strong>Abandoned Vehicle</strong></td>
<td>Means a Vehicle left on Council Land that, in the opinion of an Authorised or Delegated Officer, has been abandoned.</td>
</tr>
<tr>
<td><strong>Alcohol Free Area</strong></td>
<td>Means an area of, or in, any Municipal Place, which has been declared by the Council as an “alcohol free” area and has appropriate signage erected and maintained.</td>
</tr>
<tr>
<td><strong>Animal</strong></td>
<td>Excludes persons but includes, and is not limited to, any of the species or groups listed in the first column of the table in the Guidelines for Clause 37 in Schedule 1 and includes Livestock.</td>
</tr>
<tr>
<td><strong>Appeals Officer</strong></td>
<td>A Council officer appointed to the role of Appeals Officer by the CEO.</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Means a person who applies for a Permit under this Local Law.</td>
</tr>
<tr>
<td><strong>Appropriate Fee</strong></td>
<td>Means the fee determined by the Council in accordance with Clause 22.</td>
</tr>
<tr>
<td><strong>Arterial Road</strong></td>
<td>Means any Road declared by Vic Roads to be an ‘Arterial Road’ pursuant to section 14(1)(a) of the <em>Road Management Act</em> 2004, the main function of which, is to provide for through traffic movements, and is controlled and managed by Vic Roads.</td>
</tr>
<tr>
<td><strong>Asset Protection Permit</strong></td>
<td>Means a Permit referred to in Clause 65.</td>
</tr>
<tr>
<td><strong>Authorised Officer</strong></td>
<td>Means an Authorised Officer appointed under section 224 of the Act.</td>
</tr>
<tr>
<td>WORDS AND PHRASES</td>
<td>MEANING OR EXTENDED MEANING</td>
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<td>--------------------------------</td>
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</tr>
<tr>
<td>Barbecue</td>
<td>Means a device used for the cooking of food outdoors whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them, and includes a device for spit roasting when used outdoors.</td>
</tr>
<tr>
<td>Building Works</td>
<td>Means works for or in connection with the construction, demolition or removal of a building in respect of which a building permit is required under the Building Act 1993.</td>
</tr>
</tbody>
</table>
| Built Up Area                 | Means, in relation to a length of road, an area in which the following is present for a distance of at least 500 metres or, if the length of road is shorter than 500 metres, for the whole road:  

(a) buildings, not over 100 metres apart, on land next to the road; and  

(b) street lights not over 100 metres apart. |
<p>| Bulk Rubbish Container        | Means a bin, container, skip, mobile storage unit, or other structure designed or used for holding a substantial quantity of rubbish or storage and which is unlikely to be lifted without mechanical assistance, but excludes a container used in connection with the Council’s regular domestic rubbish collections. |
| Busk, Busking                 | Means to perform to the public, whether by acting, juggling, singing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.                                                                 |
| Campervan                     | Means any Campervan, mobile home or similar vehicle which includes sleeping and/or living facilities, whether manufactured to luxury standard or privately converted from a standard vehicle, and includes a caravan, camper trailer and other similar towed living/sleeping trailer facility. |
| Camping Area                  | Means any land within the Municipal District that has been declared by the Council or other public authority to be a ‘Camping Area’ for the purposes of this Local Law.                                                                 |
| Chief Executive Officer       | Means the person appointed by the Council to be its Chief Executive Officer or any person acting in that position (as in the Act).                                                                                             |
| Child                         | Any person under the age of 18 years (as in the Public Health and Wellbeing Act 2008).                                                                                                                                       |</p>
<table>
<thead>
<tr>
<th>WORDS AND PHRASES</th>
<th>MEANING OR EXTENDED MEANING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause</td>
<td>Means a Clause of this Local Law and Sub-clause has a corresponding meaning.</td>
</tr>
<tr>
<td>Council</td>
<td>Means the GANNAWARRA SHIRE COUNCIL.</td>
</tr>
<tr>
<td>Council Land</td>
<td>Means any land owned or vested in, or under the control and management of the Council, including, but not limited to, Roads, Municipal Reserves, watercourses and reservations.</td>
</tr>
<tr>
<td>Declared Vic Roads’ Road</td>
<td>Means a road declared by Vic Roads pursuant to section 14(1) of the Road Management Act 2004 to be a freeway, an Arterial Road or a non-arterial State road.</td>
</tr>
<tr>
<td>Delegated Officer</td>
<td>Means a staff member of the Council delegated by the Council to perform a duty, a function or to exercise a power conferred by this Local Law, whether by direct delegation from the Council or by delegation from the Chief Executive Officer.</td>
</tr>
<tr>
<td>Domestic Birds</td>
<td>Means small birds such as canaries, finches, budgerigars and the like but excludes Large and/or Noisy Birds (including Roosters) capable of causing disturbance and discomfort to neighbours.</td>
</tr>
<tr>
<td>Drovers of Livestock</td>
<td>Means a single driving of Livestock in or through the municipal district or from one location to another for the purpose of changing their grazing area or for the purposes of sale or relocation after sale, but does not include the Grazing of Livestock.</td>
</tr>
<tr>
<td>Dwelling</td>
<td>Means a building used as a self-contained residence which must include a kitchen sink, food, preparation facilities, a bath or shower and a closet pan and wash basin, and includes outbuildings and works normal to a Dwelling.</td>
</tr>
<tr>
<td>Fence</td>
<td>Means any enclosure by design or intent that is used for safety, security, boundary, amenity or the confinement of Animals and includes a gate, grid or other similar structure.</td>
</tr>
<tr>
<td>Filming</td>
<td>Means the recording of a single image or series of images for any commercial purpose and/or television broadcasting purpose, by a camera or other device equipped with one or more light sensitive lenses, capable of capturing and/or transmitting those images to any form of recording media and/or to any commercial and/or television broadcasting equipment, including any form of digital storage media in any location but excludes news media, private, non-commercial community and/or social media purposes.</td>
</tr>
</tbody>
</table>
## WORDS AND PHRASES

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning or Extended Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Footpath</td>
<td>Means a pathway or other area constructed or developed by a public authority for use by pedestrians.</td>
</tr>
<tr>
<td>Footpath Trading Permit</td>
<td>Means a Permit issued under Clause 55(1), 56(1) or 58(1) of this Local Law.</td>
</tr>
<tr>
<td>Grazing of Livestock</td>
<td>Means the use of a Road for the purposes of grazing Livestock which includes supplementary feeding, but does not include the Droving of Livestock.</td>
</tr>
<tr>
<td>GVM</td>
<td>Means the Gross Vehicle Mass of a Vehicle which means the maximum loaded mass of the Vehicle:</td>
</tr>
<tr>
<td></td>
<td>(a) as specified by the Vehicle’s manufacturer; or</td>
</tr>
<tr>
<td></td>
<td>(b) as specified by Vic Roads if –</td>
</tr>
<tr>
<td></td>
<td>(i) the manufacturer has not specified a maximum loaded mass; or</td>
</tr>
<tr>
<td></td>
<td>(ii) the manufacturer cannot be identified; or</td>
</tr>
<tr>
<td></td>
<td>(iii) the Vehicle has been modified to the extent that the manufacturer’s specification is no longer appropriate (as in the Road Safety Act 1986).</td>
</tr>
<tr>
<td>Heavy Vehicle</td>
<td>Means a motor vehicle or trailer that has a GVM greater than 4.5 tonnes, and includes:</td>
</tr>
<tr>
<td></td>
<td>(a) any other Vehicle that is physically connected to the heavy vehicle (even if that other Vehicle is not a heavy vehicle); and</td>
</tr>
<tr>
<td></td>
<td>(b) a bus that is used, or that is intended to be used, to carry passengers for reward or in the course of a business (as in the Road Safety Act 1986).</td>
</tr>
<tr>
<td>Incinerator</td>
<td>Means a structure, device or contraption (not enclosed in a building) which is -</td>
</tr>
<tr>
<td></td>
<td>(a) used or intended, adapted or designed to be used or capable of being used, for the purpose of burning any matter, material or substance;</td>
</tr>
<tr>
<td></td>
<td>(b) not licensed or otherwise subject to control under the provisions of any legislation; and</td>
</tr>
<tr>
<td></td>
<td>(c) not a Barbecue.</td>
</tr>
<tr>
<td>Infringement Notice</td>
<td>Means an Infringement Notice issued by the Council or an Authorised or Delegated Officer under this Local Law.</td>
</tr>
</tbody>
</table>
**WORDS AND PHRASES** | **MEANING OR EXTENDED MEANING**
---|---
Large and/or Noisy Birds (including Roosters) | Means, in relation to the keeping of Animals, any Large and/or Noisy Birds capable of causing disturbance or discomfort to neighbours particularly by noise, such as cockatoos, geese, macaws, Peacocks, large parrots, pheasants, roosters, turkeys or other similar sized birds and any other Noisy Birds regardless of size, but does not include Poultry, pigeons or small non-noisy birds.
Licensed Premises | Means premises licensed under the *Liquor Control Reform Act 1998* to sell or serve alcohol and includes a premises which has been granted a BYO permit under the *Liquor Control Reform Act 1998*.
Liquor | Means a beverage, or other prescribed substance, intended for human consumption with an alcoholic content greater than 0.5 per cent by volume at a temperature of 20°C (as in the *Liquor Control Reform Act 1998*).
Litter Device | Means in relation to dog or cat excrement, an apparatus designed for the purpose of removing dog or cat excrement and includes a paper or plastic bag.
Livestock | Means an animal (including a bird) of any species used in connection with primary production, or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or a cat (as in the *Impounding of Livestock Act 1994*).
Long Vehicle | Means a Vehicle that, together with any load or projection is 7.5 metres long or longer.
Manager | Means the person or persons from time to time appointed by the Council to manage any Municipal Building, Municipal Reserve or other Municipal Place, or any other relevant Authorised Officer or Delegated Officer of Council.
<table>
<thead>
<tr>
<th>WORDS AND PHRASES</th>
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<tbody>
<tr>
<td><strong>Motor Bike, or other</strong></td>
<td><strong>Motorised Recreational Vehicle</strong></td>
</tr>
<tr>
<td></td>
<td>Means a motor vehicle, whether registered or unregistered, used for recreational purposes on Private Land or Council Land but not on Roads, including but not limited to the following vehicles:</td>
</tr>
<tr>
<td></td>
<td>(a) a motor vehicle with two (2) wheels, with or without a sidecar attached that is supported by a third wheel;</td>
</tr>
<tr>
<td></td>
<td>(b) a motor vehicle with three (3) wheels, that is ridden in the same way as a motor vehicle with two (2) wheels; or</td>
</tr>
<tr>
<td></td>
<td>(c) any other motorised recreational vehicle, including, but not limited to, mini-bikes, trail-bikes, motorised scooters, motorised go-carts and quad bikes,</td>
</tr>
<tr>
<td></td>
<td>but excludes a motorised wheelchair or other aid used by persons with disabilities and motorised farm vehicles being used for farming purposes.</td>
</tr>
<tr>
<td>Municipal Building</td>
<td>Means any building (and its grounds) owned, occupied, controlled or managed by the Council, or other public building over which this Local Law has jurisdiction, which may have some or all areas designated for public or community access but may also have some or all areas designated for employee or staff only access.</td>
</tr>
<tr>
<td>Municipal District</td>
<td>Means the district under the local government of the Council <em>(as in the Act)</em>.</td>
</tr>
<tr>
<td>Municipal Environmental Health Officer</td>
<td>Means any Municipal Environmental Health Officer appointed by the Council from time to time.</td>
</tr>
<tr>
<td>Municipal Place</td>
<td>Means any place within the Municipal District, which is owned or occupied by the Council and/or controlled or managed by the Council, which the public may or may not have access to (whether an admittance fee is required or not), and includes a Municipal Reserve, Library, Municipal Building, Footpath or Road.</td>
</tr>
<tr>
<td>Municipal Planning Scheme</td>
<td>Means a planning scheme approved under the <em>Planning and Environment Act 1987</em> that operates within the Municipal District.</td>
</tr>
<tr>
<td>Municipal Reserve</td>
<td>Means any land, or waterway or water course either owned or vested in, or under the control and management of the Council, and used or set aside as a reserve but excludes Roads and any areas leased to other parties.</td>
</tr>
<tr>
<td>Notice to Comply</td>
<td>Means a Notice to Comply issued by the Council or an Authorised or Delegated Officer under this Local Law.</td>
</tr>
<tr>
<td>WORDS AND PHRASES</td>
<td>MEANING OR EXTENDED MEANING</td>
</tr>
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</tr>
<tr>
<td>Outdoor Eating Facility</td>
<td>Means any tables and/or chairs located out of doors at which food or drinks are served and may be consumed.</td>
</tr>
<tr>
<td>Penalty Unit</td>
<td>Means a Penalty Unit under the Sentencing Act 1991, currently fixed at $100 and includes any amendments to that amount as determined from time to time.</td>
</tr>
<tr>
<td>Permit</td>
<td>Means a Permit issued by the Council under this Local Law.</td>
</tr>
<tr>
<td>Permit Holder</td>
<td>Means a Person to whom a Permit has been issued under this Local Law.</td>
</tr>
<tr>
<td>Person</td>
<td>Has the meaning ascribed to it in section 3 of the Act, except that it also includes any other legal entity, whether a corporation, incorporated association or otherwise.</td>
</tr>
<tr>
<td>Poultry</td>
<td>Means any bird, such as a fowl, bantam or duck, kept for the production of eggs or meat, for human consumption or exhibition, but does not include roosters, geese or turkeys. [See ‘Large and/or Noisy Birds (including Roosters)’]</td>
</tr>
<tr>
<td>Private Land</td>
<td>Means any land other than Council Land.</td>
</tr>
<tr>
<td>Procession</td>
<td>Means an organised group of people along a Road or gathering for a ceremony or function and includes a fun run and bicycle event.</td>
</tr>
<tr>
<td>Recyclable Material</td>
<td>Means any Recyclable Material or hard waste in respect of which a separate Council or Council authorised or approved collection service applies.</td>
</tr>
<tr>
<td>WORDS AND PHRASES</td>
<td>MEANING OR EXTENDED MEANING</td>
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<tr>
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</tr>
</tbody>
</table>
| Road                          | Has the meaning ascribed to it in section 3 of the Act and includes a Public Highway (as in the Act):  
|                               | (a) a street; and  
|                               | (b) a right of way; and  
|                               | (c) any land reserved or proclaimed as a street or road under the Crown Land (Reserves) Act 1978 or the Land Act 1958; and  
|                               | (ca) a public road under the Road Management Act 2004; and  
|                               | (d) a passage; and  
|                               | (e) a cul de sac; and  
|                               | (f) a by-pass; and  
|                               | (g) a bridge or ford; and  
|                               | (h) a footpath, bicycle path or nature strip; and  
|                               | (i) any culvert or kerbing or other land or works forming part of the road.                                                                                                                                                                                                                                                                                                                                                   |
| Senior Officer                | Has the meaning ascribed to it in section 3 of the Act and includes the Chief Executive Officer.                                                                                                                                                                                                                                                                                                                                                                                     |
| Service Authority             | Means a State or Federal Government Service Authority, or any other Service Authority that is incapable of being bound by this Local Law.                                                                                                                                                                                                                                                                                                                                         |
| Smoke Free Area               | Means an area of, or in, any Municipal Place, which has been declared by the Council as a “smoke free” or “non-smoking” area and has appropriate Smoke Free Area signage erected and maintained.                                                                                                                                                                                                                                                                                                          |
| Street Festival               | Means an organised recreational, cultural, commercial or social gathering of people that is held on a Road.                                                                                                                                                                                                                                                                                                                                                                     |
| Tree                         | Means any perennial plant having one or more permanent, woody, self-supporting trunks and with branches, forming a crown, and includes all parts of the plant, whether above or below ground.                                                                                                                                                                                                                                                                                                |
| Traffic                      | Means the movement of people by foot, or in, or on, Vehicles along, across or within a Road.                                                                                                                                                                                                                                                                                                                                                                                                  |
WORDS AND PHRASES  MEANING OR EXTENDED MEANING

Traffic Control Device  Means a Traffic Control Device within the meaning of the *Road Safety Road Rules 2009*, as amended from time to time:

*a traffic sign, road marking, traffic signals or other device, to direct or warn traffic on, entering or leaving a road.*

Unlawful Game  Has the meaning ascribed to it in section 2.3.1 of the *Gambling Regulation Act 2003*, as amended from time to time:

(1) *Each of the following games is declared to be a unlawful game —*

(a) the Chinese game of fan-tan or any similar game;

(b) the game known as two-up or any similar game;

(c) the game known as hazard or any similar game;

(d) the game known as baccarat or any similar game;

(e) the game known as dinah-minah or minahdinah or any similar game;

(f) the game known as faro or any similar game;

(g) the game known as roulette or any similar game;

(h) the game known as skill-ball or any similar game;

(i) any game in which the chances are not equally favourable to all the players, including among the players, the banker or other person by whom the game is managed or against whom the other players stake play or bet;

(j) any game with cards or other instruments of gaming wherefrom any person derives a percentage or share of the amount or amounts wagered;

(k) the using or conducting of a totalisator.

(2) *A game referred to in subsection (1) is not an unlawful game to the extent that it is authorised by a gaming Act or any other Act.*
<table>
<thead>
<tr>
<th>WORDS AND PHRASES</th>
<th>MEANING OR EXTENDED MEANING</th>
</tr>
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<tbody>
<tr>
<td>Vehicle</td>
<td>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 –</td>
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<td></td>
<td>- a motor vehicle, trailer or tram; and</td>
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<td></td>
<td>- a bicycle; and</td>
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<td>- an air-cushion vehicle –</td>
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<tr>
<td></td>
<td>but does not include a train.</td>
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<tr>
<td></td>
<td>However, a reference in this Local Law to a Vehicle –</td>
</tr>
<tr>
<td></td>
<td>(a) also includes a reference to –</td>
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<td></td>
<td>(i) an animal that is being ridden or is drawing a Vehicle; and</td>
</tr>
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<td></td>
<td>(ii) a combination; and</td>
</tr>
<tr>
<td></td>
<td>(iii) a motor bike or motorised recreational vehicle;</td>
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<td></td>
<td>(b) but does not include a reference to –</td>
</tr>
<tr>
<td></td>
<td>(i) a wheelchair other than a motorised wheelchair capable of a speed of 10 kilometres per hour or more;</td>
</tr>
<tr>
<td></td>
<td>(ii) a Wheeled Non-Motorised Recreational Device; or</td>
</tr>
<tr>
<td></td>
<td>(iii) a Wheeled Child’s Toy.</td>
</tr>
<tr>
<td>Wheeled Non-Motorised Recreational Device</td>
<td>Means a wheeled device, built to transport a person propelled by human power or gravity, and ordinarily used for recreation or play and –</td>
</tr>
<tr>
<td></td>
<td>(a) includes in-line wheeled skates, roller-skates, skateboards and similar wheeled devices; but</td>
</tr>
<tr>
<td></td>
<td>(b) excludes a golf buggy, pram, stroller, trolley, bicycle, wheelchair or Wheeled Child’s Toy.</td>
</tr>
<tr>
<td>Wheeled Child’s Toy</td>
<td>Means a Child’s pedal car, scooter or tricycle or similar toy, but only when it is being used solely by a Child who is under 12 years old.</td>
</tr>
</tbody>
</table>
PART 2 - ADMINISTRATION OF THIS LOCAL LAW

10. EXERCISE OF DISCRETIONS

(1) In exercising any discretion contained in this Local Law, the Council and Authorised or Delegated Officers must have regard to:
   (a) the objectives of this Local Law;
   (b) the Guidelines, as appropriate, as determined from time to time and incorporated in this Local Law in Schedule 1;
   (c) Council Policies and other documents as determined from time to time and incorporated in this Local Law in Schedule 2;
   (d) the Permit Conditions, as determined from time to time and incorporated in this Local Law in Schedule 3; and
   (e) any other policies adopted by the Council from time to time, provided such policies are not inconsistent with this Local Law.

(2) The Council may from time to time prepare policies for use by the Council, Council staff and other persons for the purposes of this Local Law.

(3) Policies adopted by the Council must not be inconsistent with the objectives of this Local Law or with the Guidelines or any other documents as determined from time to time and incorporated in this Local Law in Schedules 1, 2 and 3.

(4) Council may, by Resolution, from time to time, amend any item in Schedules 1, 2 or 3 to this Local Law, but any such change shall have no force or effect until formal notification has been given through the Victoria Government Gazette. To this extent, such Schedules do not form part of this Local Law.

(5) In preparing Guidelines, the Council must have regard to the objectives of this Local Law.

11. REGISTER OF DETERMINATIONS

(1) Any determinations resolved by the Council for the purposes of this Local Law and any policies or amendments to Schedules adopted by the Council as in Sub-clause 10 (4), must be maintained by the Council in a register kept for that purpose.

(2) The register kept for the purposes of this Clause must be made available for inspection at the office of the Council during normal office hours.
12. **POWER OF AUTHORISED OR DELEGATED OFFICER TO DIRECT – NOTICE TO COMPLY**

Any Authorised or Delegated Officer may, by serving a Notice to Comply, direct any owner, occupier or other relevant Person to remedy any situation that constitutes a breach of this Local Law.

*Guidelines for the issuing of a Notice to Comply, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*

The form of a Notice to Comply is included in Schedule 4 to this Local Law.

13. **FAILURE TO ADHERE TO A NOTICE TO COMPLY**

A Person who fails to remedy a situation in accordance with a Notice to Comply served on that Person under this Local Law is guilty of an offence.

Penalty: 20 Penalty Units

14. **POWER OF AUTHORISED OFFICERS TO ACT IN URGENT CIRCUMSTANCES**

In urgent circumstances arising as a result of a failure to comply with this Local Law, an Authorised or Delegated Officer may take action to remove, remedy or rectify the failure without the necessity to serve a written warning, Notice to Comply, or take other action, provided the Authorised or Delegated Officer has regard to the Guidelines for Urgent Circumstances.

*Guidelines for the exercise of the power to act in urgent circumstances, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*

15. **POWER OF AUTHORISED OR DELEGATED OFFICER TO IMPOUND**

(1) If an Authorised or Delegated Officer detects an Animal, item or other thing in breach of, or being used contrary to the provisions of this Local Law, and, in the opinion of that Authorised or Delegated Officer, the continuation of that breach or use presents a potential hazard or risk to any Person or property, the Authorised or Delegated Officer may impound that Animal or other thing.

(2) If an Authorised or Delegated Officer has impounded an Animal, item or other thing in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.

*Guidelines for the exercise of the power to impound, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*

The form of a Notice of Impounding is included in Schedule 4 to this Local Law.
16. **APPEALS**

(1) Any Person who is aggrieved by any matter under this Local Law may make a written submission for consideration by the Council within twenty-eight (28) days of the date of the incident, any notice or matter concerned, but the making of any submission will not in any way remove that Person’s obligation to act in accordance with any directions or notices which are applicable under this Local Law.

(2) Sub-clause (1) does not confer a right for a Person to make a submission under section 223 of the Act.

(3) Details regarding submissions and appeal processes relating to Infringement Notices issued under this Local Law are found in Part 10 of this Local Law.

(4) Any submission or appeal under this Local Law will be determined by an Appeals Officer separate and independent from any Authorised or Delegated Officer who may have issued an Infringement Notice or other Notice or exercised any other power under this Local Law.

(5) On any submission on any matter under this Local Law (other than an appeal from an Infringement Notice) the Council’s decision is final, excepting only an appeal on legal grounds to the Supreme Court of Victoria.

*For a fuller description of Appeal rights and procedures see Part 10 Enforcement and Penalties, Clause 88.*
PART 3 - PERMITS

17. PERMITS

   (1) The form for an application for a Permit is set out in Schedule 4.

   (2) Despite Sub-clause (1), a written application contrary to the Form in Schedule 4 may be accepted by the Council or an Authorised or Delegated Officer if it is considered that the appropriate information has been supplied.

   (3) When receiving and processing Permit applications and when imposing conditions, making corrections or considering cancellations of Permits, the Council or an Authorised or Delegated Officer must have regard to the Guidelines relating to Permits as amended by the Council from time to time and incorporated in Schedule 1 and the Standard Permit Conditions as amended by the Council from time to time and incorporated in Schedule 3.

18. POWER TO OBTAIN NECESSARY AND ADDITIONAL INFORMATION

   The Council or an Authorised or Delegated Officer may require any Applicant to provide additional information before dealing with an application for a Permit or an exemption and for the purposes of administering and enforcing the provisions of this Local Law.

19. RECORD OF PERMITS

   (1) A record of any Permits issued by the Council for the purposes of this Local Law must be maintained by the Council.

   (2) Any cancellations or corrections of Permits which have been issued under this Local Law are also to be recorded.

20. EXEMPTION FROM PERMIT OR PERMIT FEE

   (1) The Council may, by written notice, exempt any Person or class of Person from the need to obtain a Permit, and such exemption may be conditional, may be altered and may be cancelled.

   (2) The Council may, by written notice, exempt any Person or class of Person from the need to pay any Permit fee.

   (3) An exemption from the requirement to pay a Permit fee may be cancelled or corrected in the same way as a Permit.

   (4) A Service Authority or a Person employed by, or acting on behalf of a Service Authority, which is exempt from this Local Law, is not required to obtain a Permit in respect of work which is for the purposes of the Service Authority, but must notify the Council of the activity prior to its commencement.
Guidelines for determining whether to recommend or grant a permit exemption or permit fee waiver, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

21. OFFENCE TO FALSIFY APPLICATION

A Person who makes any false representation or declaration (whether oral or in writing) in, or who unreasonably omits any relevant information from, an application for a Permit or exemption is guilty of an offence.

Penalty: 10 Penalty Units
PART 4 - FEES, CHARGES AND COSTS

22. SETTING FEES AND CHARGES

(1) The Council may, from time to time, by resolution determine the fees and charges to apply under this Local Law and may include an administration or processing fee or charge. The Council must give public notice of its resolution to set or alter fees and charges.

(2) Where a Permit is issued part way through the financial year and is to operate for the balance of that financial year, the Council may vary the normal annual fee or charge by applying a fee or charge which is proportionate to the period for which the Permit will apply, corrected to the next higher quarter of that year.

23. DIFFERENTIAL OR STRUCTURED FEES AND CHARGES

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

24. WAIVER OR ALTERATION TO FEES AND CHARGES

The Council may waive, reduce or alter any fee or charge with or without conditions upon receipt of a written submission from the Applicant stating reasons why any such fee or charge should be reconsidered.

Guidelines for determining whether to recommend or grant a permit exemption or permit fee waiver, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

The Council’s fees and charges are determined annually by the Council in its budgeting process and are available from the Council’s website or by enquiry direct to the Council.
PART 5 – YOUR PROPERTY, TREES AND ANIMALS

YOUR PROPERTY

25. COUNCIL TO APPROVE ROAD NAMES

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

Penalty: 10 Penalty Units

(2) When considering the allocation of a name for a Road, the Council or an Authorised or Delegated Officer is to have regard to the Guidelines incorporated in Schedule 1.

(3) Nothing in Sub-clause (1) applies to Vic Roads in relation to any State Road within the meaning of the Road Management Act 2004.

Guidelines for the naming of roads, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

26. PROPERTY NUMBERS

(1) The Council or an Authorised or Delegated Officer may allocate a property number to each property in the Municipal District and, from time to time, may make changes to property numbers.

(2) For each property that has been allocated a property number under this Clause, the owner of the property must mark the property with the number allocated by Council and that 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 nearest Road under all normal lighting conditions.

Penalty: 10 Penalty Units

Guidelines for determining the sufficiency of size, location and visibility of property numbers, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

27. UNSIGHTLY LAND

An owner or occupier of Private Land must not cause or allow the Private Land to be kept in a manner which is unsightly or detrimental to the general amenity of the neighbourhood in which it is located.

Penalty: 15 Penalty Units

Guidelines for determining whether private land is unsightly land, as determined by Council from time to time, are incorporated in Schedule 1 to this Local Law.
28. **DANGEROUS LAND**

An owner or occupier of Private Land must not cause or allow the Private Land to be kept in a manner which is dangerous or likely to cause danger to life or property including, but not limited to, Private Land which is:

(1) a haven for vermin, or noxious weeds;

(2) used without a Permit for the storage of any substance which is dangerous or is likely to cause danger to a Person, life or property; or

(3) occupied by an unsecured hole or excavation.

Penalty: 20 Penalty Units

29. **DOMESTIC WASTE INCLUDING RECYCLABLE AND HARD RUBBISH COLLECTION**

The occupier of any Dwelling or Private Land or Council Land to which the Council provides a waste collection service (including Recyclable Material and hard rubbish collection) must comply with the Guidelines for domestic waste, recyclable and hard rubbish services incorporated in Schedule 1 to this Local Law.

*Guidelines for domestic waste, recyclable and hard rubbish collection services, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*

Penalty: 10 Penalty Units

30. **REMOVING RECYCLABLE MATERIAL AND HARD RUBBISH**

(1) A Person must not remove or interfere with any Recyclable Material or hard rubbish left on a Road, or at any other collection point, for collection in accordance with any instructions determined by the Council and published on the Council's website.

   Penalty: 10 Penalty Units

(2) Sub-clause (1) does not apply to a Person authorised by the Council to remove such Recyclable Material or hard rubbish or any employee of such a Person in the course of his or her employment, the Person placing the Recyclable Material or hard rubbish for collection or an Authorised Officer in the course of his or her employment.
31. OPEN AIR BURNING

Clean air forms a part of the amenity of our neighbourhoods. All persons in the municipal district must avoid creating offensive emissions of smoke and odour from open air burning, including the burning of offensive materials that may invade neighbouring residential properties.

(1) A Person must not, on any Private Land under 0.5 hectares in a built up area, light any fire or allow such a fire to remain alight in the open air, including in an Incinerator or other similar device, except for any fire lit for domestic cooking purposes in a permanent or portable Barbeque, a wood fire oven, copper stand burner or other similar cooking device or a properly constructed fireplace including a metal brazier lit for heating purposes, which does not require a Permit.

Penalty: 15 Penalty Units

(2) A Person must not, on any Private Land between 0.5 and 2 hectares in a built up area, without a Permit, light any fire or allow such a fire to remain alight in the open air, including in an Incinerator or other similar device, except for any fire lit for domestic cooking purposes in a permanent or portable Barbeque, a wood fire oven, copper stand burner or other similar cooking device or a properly constructed fireplace including a metal brazier lit for heating purposes, which does not require a Permit.

Penalty: 10 Penalty Units

(3) A Person must not burn or cause to be burnt, or allow to remain alight in the open air, including in an Incinerator or other similar device, in any part of the Municipal District:

(a) any offensive materials; or

(b) any materials that cause offensive emissions of smoke and odour to enter any neighbouring residential property.

Penalty: 15 Penalty Units

(4) The following exemptions apply in respect of this Clause:

(a) Council staff members and Persons contracted or authorised by the Council for the purpose may, without a Permit, undertake controlled burning-off as a part of normal parks maintenance on any Council Land;

(b) Country Fire Authority (CFA) carrying out training or fire hazard reductions; and

(c) an Authorised or Delegated Officer may grant exemptions to any part of this Clause in special or unusual circumstances, such as in emergencies, urgent circumstances or natural disasters.
Guidelines for determining whether an offence has been committed or for determining whether to issue a permit or to grant a permit exemption in relation to open air burning, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

32. FIRE HAZARDS

An owner or occupier of Private Land must ensure that:

(1) all necessary steps are taken to prevent fires on that Private Land and to minimise the possibility of the spread of fire from that land; and

(2) the Private Land is kept free of undergrowth, scrub, bracken, ferns, weeds, stubble, tall grass, whether alive or dead, and of any other flammable materials, substances and/or waste which in the reasonable opinion of Council’s authorised Municipal Fire Prevention Officer presents a fire hazard.

Penalty: 20 Penalty Units

(3) No Infringement Notice or prosecution proceedings may be issued under Sub-clause (2) unless a Notice to Comply has been issued to the owner or occupier of the Private Land and such owner or occupier has failed to comply with the reasonable time given by Council to comply (which may vary depending on the level of risk assessed by Council’s authorised Municipal Fire Prevention Officer).

33. CAMPING ON PRIVATE LAND

(1) A Person, other than an owner or occupier of Private Land or a person authorised by the owner or occupier of Private Land, must not, without a Permit, camp on Private Land whether in a tent, Campervan or other temporary or makeshift structure, unless the Person is within a licensed caravan park or a Camping Area.

Penalty: 10 Penalty Units.

(2) A Person who has obtained a Permit under Sub-clause (1) or who is otherwise camping in a Camping Area must still comply with any authorised signage at the Camping Area and the requirements of Council in relation to tidiness, waste disposal, toilet facilities, and campfires, as set out in the Guidelines for camping on Council Land incorporated in Schedule 1 to this Local Law.

In determining whether to grant a Permit or a camping offence has occurred, the Council or an Authorised or Delegated Officer must have regard to the Guidelines as determined by the Council from time to time and incorporated in Schedule 1 to this Local Law.
Guidelines for camping on private land, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

For camping on Council land, see Clause 78 of this Local Law and the Guidelines incorporated in Schedule 1.

34. SHIPPING CONTAINERS

The visual amenity in residential neighbourhoods is an important factor in maintaining good community relations, a sense of health and wellbeing and stable or improving property values. Temporary structures including shipping containers are often viewed as detrimental to neighbourhood amenity. Council seeks to find a balance between protecting the rights of an individual and the enjoyment and comfort of individuals and of the community generally. Persons living in townships, with close neighbours must often compromise some freedoms to enjoy the convenience and environment of a township.

A Person must not, without a Permit, keep, store, repair or in any other manner use any shipping container upon:

(1) any Private Land of less than 0.5 hectares, except for Private Land which is zoned Farm Zone under the Municipal Planning Scheme;

Penalty: 10 Penalty Units

(2) upon any Council Land.

Penalty: 20 Penalty Units

Guidelines for shipping containers, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

Permit conditions for shipping containers, as determined by the Council from time to time, are incorporated in Schedule 3 to this Local Law.
YOUR TREES

35. TREES AND PLANTS NOT TO OBSTRUCT OR OBSCURE

(1) A Person must not, without a Permit, allow any Tree or plant in, or growing on, Private Land owned or occupied by him or her, to obstruct or interfere with the passage of Traffic by:
   (a) overhanging any Footpath at a height lower than 2.4 metres, or
   (b) extending, obstructing or obscuring in any other way, as described in the Guidelines for trees and plants not to obstruct or obscure, as determined by the Council from time to time and incorporated in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

(2) No offence will be committed under Sub-clause (1) until a Notice to Comply has been issued to the owner or the occupier of the Private Land and such owner or occupier of the Private Land has failed to comply with the Notice within reasonable time given by Council to comply,

(3) Sub-Clause (2) will not apply where Council is required to take urgent action to avert immediate danger to persons or property, without giving a Notice to Comply.

Guidelines for the removal of overhanging tree obstructions, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

36. TREES AND PLANTS CAUSING DAMAGE TO A MUNICIPAL PLACE

(1) A Person must not allow any Tree or plant in, or growing on, Private Land owned or occupied by him or her, to cause damage to, or interference with, any fixture or other erection in a Municipal Place or drain vested in, or under the control of the Council.

Penalty: 10 Penalty Units

(2) No offence will be committed under Sub-clause (1) until a Notice to Comply has been issued to the owner or the occupier of the Private Land and such owner or occupier of the Private Land has failed to comply with the Notice within reasonable time given by Council to comply.

(3) Sub-Clause (2) will not apply where Council is required to take urgent action to avert immediate danger to persons or property, without giving a Notice to Comply.
YOUR ANIMALS

37. KEEPING ANIMALS

The opportunity to keep animals is one of the many pleasures often enjoyed in a rural lifestyle. However, the keeping of animals must be balanced with the right to quiet enjoyment of the environment by individuals and the community generally and especially our closest neighbours.

(1) An owner or occupier of Private Land must not, without a Permit, keep or allow to be kept on any one parcel of land at any time, any more in number for each type of Animal than is set out in the Table of Animal Numbers and Types in the Guidelines as determined by Council from time to time, incorporated in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

(2) Unless otherwise contrary to State or Commonwealth legislation, a Permit is also required to keep, or allow to be kept, any exotic, wild, native, dangerous or large Animal not listed in Sub-clause (1).

(3) For the purpose of calculating the Animal numbers kept under Sub-clause (1), the progeny of any dog or cat lawfully kept will be counted from 12 weeks after their birth.

Guidelines for the keeping of animals, including the Table of Animal Numbers and Types, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

38. ANIMAL ACCOMMODATION

(1) The owner or occupier of any Private Land on which an Animal is kept must provide accommodation in accordance with the Guidelines in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

(2) If a planning permit is required to keep an Animal on Private Land and has not been obtained or has not been complied with then (apart from any penalty for not obtaining or complying with the planning permit), the owner or occupier of the Private Land must still keep the Animal accommodated in accordance with the Guidelines in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

Guidelines for animal accommodation, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.
39. ADEQUATE FENCING

The keeping of animals is one of the many pleasures of a rural lifestyle. However, the escape of an animal can easily result in human tragedy. Consequently, owners of private land have an important responsibility to ensure the safety of the community, road users and all of the animals they keep by providing adequate fencing on their private land.

(1) Where an Animal is kept on Private Land, the owner or occupier of the Private Land must ensure that the Private Land is fenced in a way that will prevent the Animal from straying or escaping from the Private Land.

Penalty for first offence: 10 penalty units

Penalty for second and subsequent offence: 20 penalty units

(2) Where the Animals kept on Private Land are sheep, cattle, horses or other large animals, the owner or occupier of the Private Land must ensure, by adequate fencing that no animal strays or escapes onto, or remains unattended on a Road.

Penalty: 20 penalty units

(3) No offence is committed under Sub-clause (2) where it can be shown that extreme or unusual circumstances beyond the control of the owner or occupier, such as wildfire, flood or dog attack directly resulted in the escape of the Animal through otherwise adequate fencing.

Guidelines for adequate fencing, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

See also the following clauses in this Local Law:
- Part 6 – Roads, Livestock Movements and Vehicles: Clause 42 – Damage of Roads and Fodder on Roads;
40. **ANIMAL EXCREMENT**

(1) A Person in charge of any dog or cat on Council Land must not allow any part of the excrement of the dog or cat to remain on the Council Land.

(2) Penalty: 10 Penalty Units

(3) A Person in charge of any dog or cat on Council Land must carry a Litter Device suitable to clean up any excrement left by his or her dog or cat and must produce such Litter Device upon request of an Authorised Officer.

   Penalty: 10 Penalty Units

41. **ANIMAL AND BIRD NOISE**

The owner or occupier of Private Land must take all necessary steps to prevent any Animal or Large and/or Noisy Birds (including Roosters) on the Private Land from sounding noise at unreasonable times that may adversely affect the comfort, convenience, quiet enjoyment or privacy of any other Person living in the neighbourhood.

   Penalty: 10 penalty units
PART 6 – ROADS, LIVESTOCK MOVEMENTS AND VEHICLES

42. DAMAGE OF ROADS AND FODDER ON ROADS

   (1) A Person must not, without a Permit, behave in a way or undertake any activity that causes damage to, or is detrimental to any part of a Road.

       Penalty: 20 penalty units

   (2) A Person must not place, keep, store, or retrieve, or authorise another Person to place, keep, store or retrieve fodder on any part of a Road, if placing, keeping, storing or retrieving the fodder creates a danger to road users or damages the road.

       Penalty: 10 Penalty Units

   (3) If the Council considers that any activity or use on Private Land owned or occupied by a Person has resulted in damage to a Road, Council may serve a notice on the Person requiring him or her to repair the damage within 28 days of receiving the notice.

       Penalty: 10 Penalty Units

   Guidelines for a permit for activities likely to damage roads are the same as the Guidelines for a permit to use or open a road / drainage tapping.

43. LIVESTOCK ON ROADS – GRAZING AND DROVING PERMITS

   The presence of livestock on roads for the purposes of grazing or droving is a long tradition in rural areas. However, it creates considerable risk for the public, the animals and for Council assets. To help minimise these risks, a permit is required to use roads for the grazing of livestock and the droving of livestock.

   (1) A Person must not, without a Permit, allow the Grazing of Livestock or the Droving of Livestock on a Road.

       Penalty: 20 Penalty Units

   Guidelines for the issuing of a permit for the grazing of livestock or the droving of livestock on a road, as determined by Council from time to time, are incorporated in Schedule 1 to this Local Law.

   (2) A Person must not allow the Grazing of Livestock or the Droving of Livestock, or allow or permit any other Person to graze or drove Livestock on a Road contrary to the conditions of a Permit.

       Penalty: 20 Penalty Units
44. TRANSPORTATION OF ANIMAL WASTE OR OTHER OFFENSIVE WASTE

Any material dropped on a Road from the transporting of Animal or other offensive waste that is likely to be a danger to Road users or offensive to pedestrians or adjacent residents, must be removed from the Road as soon as practical.

Penalty: 15 Penalty Units

45. STREET LITTER BINS AND RECYCLING BINS

(1) A Person must not deposit any waste or other material in a street litter bin or recycling bin (including a clothing recycling bin) contrary to any notice detailing the type of waste that will be received in the street litter bin or recycling bin.

Penalty: 10 penalty units

(2) A Person must not, without a Permit, place or cause or allow another Person to place a recycling bin (including a clothing recycling bin) on any Council Land, including a Footpath or other part of a Road (whether or not, in relation to such road, Council is the Responsible Road Authority)

Penalty: 10 penalty units

46. PLACING BULK RUBBISH CONTAINERS

(1) A Person must not, without a Permit, place or cause or allow another Person to place a Bulk Rubbish Container on a Road.

Penalty: 10 Penalty Units

(2) Any Bulk Rubbish Container placed on any part of a Road contrary to this Clause or in contravention of any conditions of a Permit may be removed by an Authorised or Delegated Officer and impounded.

(3) Where a Bulk Rubbish Container has been impounded, there must be compliance with the provisions of Clause 15.

Guidelines for bulk rubbish containers, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

See also the following clauses in this Local Law:
• Part 7 - Business and Builders: Clause 60 – Trade Waste Bins and Waste Hoppers (including all trade recycling bins); and
47. **MOTOR BIKES AND MOTORISED RECREATIONAL VEHICLES**

*The use of motor bikes and other motorised recreational vehicles can be an exciting recreational or competitive activity. However, this activity must be balanced against the management of risk and the right of close neighbours to the quiet enjoyment of the environment in which they live or visit.*

A Person must not, without a Permit, use a Motor Bike or other Motorised Recreational Vehicle on any part of Council Land other than a Road, unless the part of Council Land has been designated for that purpose.

Penalty: 10 Penalty Units

In determining whether to grant a Permit, the Council or an Authorised or Delegated Officer must have regard to any Guidelines in Schedule 1 to this Local Law.

*Guidelines for motor bikes and motorised recreational vehicles, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*

48. **DISMANTLING VEHICLES ON A ROAD**

A Person must not dismantle a Vehicle on a Road, or allow or authorise another Person to do so.

Penalty: 10 Penalty Units

49. **DERELICT AND ABANDONED VEHICLES**

(1) A Person must not, without a Permit, leave any derelict, abandoned or unregistered Vehicle on any Council Land, whether temporarily or permanently.

(2) Penalty: 10 Penalty Units

(3) Any Vehicle found on Council Land and considered by an Authorised Officer to be derelict, abandoned or unregistered may be dealt with under the provisions of Schedule 11 to the Act.

*Clauses 3 and 5 of Schedule 11 to the Local Government Act 1989 (relating to the power to remove unregistered or abandoned vehicles and the power to move other obstructions), as amended from time to time are incorporated in Schedule 2 to this Local Law.*
50. **HEAVY VEHICLES: PERMITS FOR USE ON RESTRICTED USE ROADS**

(1) If the Council is of the opinion that a Road or part of a Road is likely to be damaged by a particular class of Vehicle and it resolves, subject to compliance with section 223 of the Act, to prohibit or restrict owners and drivers of such Vehicles to use, or cause to be used, these Vehicles on the Road or part of the Road, the Council must erect a sign or signs at the entry to the Road or part of the Road advising of the prohibition.

(2) A Person must not, without a Permit, use a Road or part of a Road contrary to any sign erected with reference to it under Sub-clause (1).

   Penalty: 10 Penalty Units

(3) In determining whether to grant a Permit, the Council may have regard to any Guidelines in Schedule 1 to this Local Law.

   *Guidelines for heavy vehicles on restricted use roads, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*

51. **STREET FESTIVALS: PERMIT**

(1) A Person must not, without a Permit, hold a Street Festival or Procession on a Road.

   Penalty: 20 Penalty Units

(2) An application to conduct an event on any Road must be made 21 days before the event is to take place.

   *Guidelines for a street festival or procession, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.*
PART 7- BUSINESS AND BUILDERS

BUSINESS

52. ROADSIDE TRADING, BUSKING AND PERFORMING

(1) A Person must not, without a Permit, erect or place on any Road or Council Land a Vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services.

Penalty: 20 Penalty Units

(2) A Person, must not, without a Permit, on any Road or Council Land Busk or perform to the public, or play any musical instrument or use any sound amplification equipment.

Penalty: 5 Penalty Units

(3) Sub-clauses (1) and (2) do not include short-term outdoor community events on Council Land, although such events may be subject to a Permit under Clause 76 of this Local Law.

(4) Sub-clause (2) does not apply to any sounds within a motor vehicle which cannot be heard outside that motor vehicle or any sound or noise conveyed through any headphones which sound or noise is not audible to a Person other than the wearer of the headphones.

Guidelines for roadside trading, performing or busking, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

53. REGULATION OF TRADING SITES

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

Penalty: 10 Penalty Units

(2) In addition to any other power which it has, the Council may, by resolution, determine a fee, charge, fare or rent in relation to the selling or offering for sale of any goods or services from any Private Land or Council Land adjacent to a Road or to any Person who is on that Road or adjacent Private Land or Council Land.
54. IMPOUNDING OF GOODS AND EQUIPMENT

(1) Where the use of a site or the contravention of any conditions on a Permit issued under Clause 52 continues after a Notice to Comply has been served on a Person, any goods and associated equipment used by that Person may be removed from the site by an Authorised or Delegated Officer and impounded.

(2) Where any goods and equipment have been impounded, there must be compliance with the provisions of Clause 15.

55. DISPLAYING GOODS FOR SALE

(1) A Person must not, without a Permit, place or display any goods for sale or cause or allow another Person under his or her control to do so on any Council Land.

   Penalty: 15 Penalty Units

(2) In determining whether to grant a Permit, an Authorised or Delegated Officer must have regard to the Guidelines as amended by the Council from time to time and incorporated in Schedule 1 to this Local Law.

(3) Any goods left or displayed on any part of the Council Land contrary to this Clause or displayed in contravention of any conditions of a Permit may be removed by an Authorised or Delegated Officer and impounded.

(4) Where any goods have been impounded, there must be compliance with the provisions of Clause 15.

Guidelines for determining whether to grant a permit for the display of goods, as amended by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

56. USE OF COUNCIL LAND FOR COMMERCIAL OUTDOOR EATING FACILITIES

(1) A Person must not, without a Permit, use any Council Land (including a Footpath or other part of a Road) for any commercial outdoor dining or eating, whether or not the consumption of alcohol is intended.

(2) A Person must not, without a Permit, use or allow to be used, any Council Land (including a Footpath or other part of a Road) adjoining Licensed Premises for the sale or consumption of alcohol.

   Penalty: 20 Penalty Units

(3) Notwithstanding Sub-clause (2), a Person must not, use or allow to be used, any Council Land (including a Footpath or other part of a Road) adjoining Licensed Premises for the sale or consumption of alcohol unless a variation is endorsed on the trader’s liquor licence by the Victorian Liquor Licensing authority to allow for the sale and consumption of alcohol on the Footpath or other part of a Road.
(4) Any tables, chairs, umbrellas or other equipment in an Outdoor Eating Facility used in contravention of this Clause or of any conditions of a Permit, may be removed by an Authorised or Delegated Officer and impounded.

(5) Where any tables, chairs, umbrellas or other equipment have been impounded, there must be compliance with the provisions of Clause 15.

Guidelines for determining whether to grant a permit for the use of any Council Land (including a Footpath or other part of a Road) for the purpose of commercial outdoor dining or, when adjoining Licensed Premises, for the purposes the sale and consumption of alcohol, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

57. REMOVING THE FACILITY

A Permit Holder must move or remove the Outdoor Eating Facility to which the Permit relates when requested to do so for the purposes of public safety by an Authorised or Delegated Officer or a member of the Victoria Police or an emergency service.

Penalty: 15 Penalty Units

58. ADVERTISING SIGNS: ERECTING OR PLACING

(1) A Person must not, without a Permit, erect or place an Advertising Sign on any part of a Road or Council Land, or cause or in any way authorise another Person to do so.

Penalty: 10 Penalty Units

(2) An Advertising Sign under this Clause excludes signage within a Municipal Reserve, which may be subject to a Permit under Clause 76.

(3) Where an Advertising Sign is erected or placed in any location contrary to this Clause or in contravention of any Permit conditions, it may be removed by an Authorised Officer and impounded provided the Authorised Officer has first issued a Notice to Comply to the Person who owns or who has placed the Advertising Sign on any part of the Road or Council Land, unless, in the Authorised Officer’s reasonable opinion, an emergency situation occurs, in which case the Advertising Sign may be impounded immediately and, if practicable, notices served as soon as possible on the owner after impoundment.

(4) Where an Advertising Sign has been impounded, there must be compliance with the provisions of Clause 15.

Guidelines for determining whether to grant a permit for advertising signs placed on a road or Council land, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.
COLLECTIONS AND HOUSE TO HOUSE TRADING

Community hospitality and generosity are valued features of a rural community, but this must be balanced against the rights of every person to not be excessively imposed upon in their home, street or vehicle by charitable collectors, commercial traders or any other organisations.

(1) A Person must not, without a Permit, from house to house:
   (a) solicit or collect any gifts of money, subscriptions or waste materials; or
   (b) distribute any handbills, information brochures or books; or
   (c) sell or offer goods or services for sale;
   or cause or authorise another Person to do so.

Penalty: 15 Penalty Units

(2) A Person must not, without a Permit, from any Council Land:
   (a) solicit or collect any gifts of money, subscriptions or waste materials; or
   (b) distribute any handbills, information brochures or books;
   or cause or authorise another Person to do.

Penalty: 10 Penalty Units

(3) The following exemptions apply in respect of this Clause:
   (a) Sub-clause (1) does not apply to the hand delivery of printed matter only to street-side letterboxes and the home delivery of newspapers, magazines, or goods purchased at another location or goods delivered at the request of the owner or occupier of the Dwelling;
   (b) Sub-clause (1) & (2) do not apply to any solicitation or distribution of printed electoral material, the collection of signatures for a petition or fundraising by persons duly authorised by an educational, cultural or recreational facility or organisation located in the Municipal District for 2 years or more or a registered charity.

In determining whether to grant a Permit, an Authorised or Delegated Officer must have regard to the Guidelines incorporated in Schedule 1 to this Local Law.

Guidelines for collections and house to house trading, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

See also the following clauses in this Local Law:

- Part 7 – Business and Builders: Clause 52 – Roadside Trading, Busking and Performing; and
60. TRADE WASTE BINS AND WASTE HOPPERS (INCLUDING ALL TRADE RECYCLING BINS)

(1) An occupier of Private Land must arrange for the collection of trade waste from, or for the placement of a waste hopper or recycling bin on, that Private Land in compliance with the Guidelines for trade waste and waste hoppers incorporated in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

(2) A Person must not place any waste or material in a trade waste bin, waste hopper or recycling bin contrary to the notice on the hopper or recycling bin in compliance with the Guidelines for trade waste and waste hoppers incorporated in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

(3) All trade waste and waste hoppers, including recycling bins, must be kept on the Private Land of the Person on which the waste is generated, except for the period from twelve (12) hours before to four (4) hours following collection.

Penalty: 10 Penalty Units

Guidelines for trade waste bins and waste hoppers (including trade recycling bins), as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

See also the following clauses in this Local Law:
- Part 6 – Roads, Livestock Movements and Vehicles: Clause 46 - Placing Bulk Rubbish Containers; and
61. OCCUPYING OR OPENING A ROAD / DRAINAGE TAPPING

(1) A Person must not, without a Permit, occupy or open any Road anywhere in the Municipal District.

Penalty: 20 Penalty Units

(2) A Person must not, without a Permit, tap into or interfere with any drain including opening any Road, for any purpose, where any part of the drain or Road is under the control of the Council.

Penalty: 20 Penalty Units

(3) The following exemptions apply in respect of this Clause:

(a) A Person who is employed by the Council and who is acting in the course of their ordinary duties; and

(b) A Person who is contracted by Council for the purpose.

Guidelines for occupying or opening a road / drainage tapping, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

Permit conditions for occupying or opening a road / drainage tapping, as determined by the Council from time to time, are incorporated in Schedule 3 to this Local Law.

62. VEHICLE CROSSING REQUIRED

(1) The owner of Private Land must ensure that each point of Vehicle access from a Road to the Private Land has a properly constructed Vehicle crossing between the Road and the boundary of the Private Land abutting the Road.

Penalty: 20 Penalty Units

(2) Any such Vehicle crossing must be properly constructed at the cost of the owner of the Private Land and in accordance with the Council’s specifications.

(3) For the purposes of this Clause, a Vehicle crossing is properly constructed if:

(a) it was constructed by or in accordance with the terms of an approval by the Council; or
(b) the Council or Vic Roads has approved in writing the method of construction of the particular Vehicle crossing.

(4) The owner of the Private Land must, at his or her own cost, ensure that the Vehicle crossing between the Road and the boundary of his or her Private Land is maintained.

Penalty: 20 Penalty Units

63. CONSTRUCTING / REMOVING A VEHICLE CROSSING

(1) A Person must not, without a Permit, or written consent from Vic Roads, construct, install, remove or alter a Vehicle crossing, whether temporarily or permanently.

Penalty: 20 Penalty Units

(2) A Person must not, remove or damage any street Tree as a result of the construction, installation, removal or alteration of a Vehicle crossing.

Penalty: 5 Penalty Units

(3) Where works on Private Land involve the relocation or closure of a point of vehicular access, the owner and occupier of the Private Land who undertakes those works must ensure that any redundant part of a Vehicle crossing is removed and the kerb, drain, Footpath, or other part of the Road is reinstated to the satisfaction of the Council or an Authorised or Delegated Officer.

Penalty: 20 Penalty Units

Guidelines for granting a permit for the construction, installation, removal or alteration of a vehicle crossing are the same guidelines as for determining whether to grant an asset protection permit under Clause 65 Asset Protection - Building Works on Private Land.

64. TEMPORARY VEHICLE CROSSINGS

(1) Where it is likely that Building Works on Private Land will involve a Vehicle leaving the Road or entering the Private Land or the Private Land abuts a Road, the owner of the Private Land or the Person responsible for the Building Works must obtain a Permit for the construction of a temporary crossing, pay any inspection fee and protect all of the existing Road including the kerb, drains, street trees, footpaths, nature strip and any other part of the Road.

Penalty: 20 Penalty Units
(2) The owner of the Private Land on which the Building Works have been carried out must, to the satisfaction of the Council, repair any damage to the kerb, drains, Footpath, street Tree or existing Road caused by the carrying out of the Building Works.

Penalty: 20 Penalty Units

(3) Where, in the opinion of an Authorised Officer, an existing driveway crossing, Footpath, kerb, street Tree or other part of the Road has been damaged as a result of, or arising out of, the Building Works, the owner of the Private Land on which the Building Works have been carried out must repair the damage or, when requested to do so by the Council, reimburse the Council for the cost and expense of the repair of such damage.

Penalty: 20 Penalty Units

(4) The amount of reimbursement for such repairs under Sub-clause (3) must be proportionate to the cost of repairing any damage.

Guidelines for granting a permit for a temporary vehicle crossing are the same guidelines as determining whether to grant an asset protection permit under clause 65 Asset Protection – Building Works on Private Land.

65. ASSET PROTECTION - BUILDING WORKS ON PRIVATE LAND

In relation to any building works on private land, the Council’s objectives are to secure community safety, protect public assets, enhance neighbourhood amenity and simultaneously support appropriate private building development.

A Person must not cause or allow any Building Works to commence or continue on Private Land without:

(1) giving written advice to the Council of the general nature of the works to be undertaken;

(2) paying an inspection fee to the Council not less than 5 business days prior to the commencement of the Building Works;

(3) giving an opportunity for an Authorised or Delegated Officer to inspect the Roads, Council Land and any other Council assets in the vicinity of the Private Land; and

(4) obtaining and complying with an Asset Protection Permit from the Council.

Guidelines for determining whether to grant an asset protection permit, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.
(5) If an Authorised or Delegated Officer is of the reasonable opinion that there is an unacceptable level of risk of damage to the Roads, Council Land and any other Council assets in the vicinity of the Private Land on which the Building Works are proposed, including any works related to Vehicle crossings, the Authorised or Delegated Officer may issue a written notice to the owner or occupier of the Private Land or their authorised building agent, requiring the delivery to the Council of a guarantee or bond satisfactory to the Authorised or Delegated Officer, and no Building Works may commence until payment of that bond has been made.

Guidelines for the issuing of a written notice, the circumstances in which all or part of the bond may be used by Council and/or refunded, as determined by the Council from time to time, are incorporated in this Schedule 1 to this Local Law.

(6) Whether a condition of the Asset Protection Permit or not, a Person must not cause or permit any Building Works to commence or continue on Private Land without ensuring that:

(a) the Private Land is properly fenced whether permanent or temporary and remains so for the duration of the Building Works;

(b) a protective barrier is installed around any Tree which is -
   (i) located on a Road or other Council Land within 4 metres of the building site unless reasonable grounds for its exclusion are determined by an Authorised or Delegated Officer; and
   (ii) any additional Tree nominated by an Authorised or Delegated Officer as requiring a protective barrier.

(c) building clean-up, wash-down, slurry or other wastes do not enter the Council’s stormwater system;

(d) the Private Land is provided with proper site identification;

(e) any Vehicle crossings to be temporarily or permanently installed, altered or removed are identified and included in the conditions of the Permit and the calculation of any bond; and

(f) upon being requested by an Authorised or Delegated Officer to do so, a traffic management plan and or a waste management plan is provided to the Council adequately addressing any parking or traffic or issues referable to the Building Works which have been identified by the an Authorised or Delegated Officer.

Guidelines for the proper fencing of building works, protective tree barriers, site identification, vehicle crossings, traffic management and waste management plans, as determined by the Council from time to time, are incorporated in this Schedule 1 to this Local Law.

Failure to comply with this Clause or any condition in an Asset Protection Permit is an offence.

Penalty: 20 Penalty Units
PART 8 - SMOKING AND ALCOHOL

66. CONSUMPTION AND POSSESSION OF LIQUOR ON ROADS

A Person must not, unless covered by an exemption in Clause 69, at any time on a Road:

(1) consume any Liquor; or

(2) have in his or her possession or control any Liquor other than in a container with an unbroken seal.

Penalty: 10 Penalty Units

67. CONSUMPTION AND POSSESSION OF LIQUOR ON MUNICIPAL RESERVES

Between 10.00 pm and 8.00 am, a Person must not, unless covered by an exemption in Clause 69, in or on any Municipal Reserve (including on any Road within a Municipal Reserve) or in any motor vehicle within a Municipal Reserve:

(1) consume any Liquor; or

(2) have in his or her possession or control any Liquor other than Liquor in a container with an unbroken seal.

Penalty: 10 Penalty Units

68. ALCOHOL FREE AREAS

(1) The Council may, by resolution, declare in part or whole any Municipal Place, Road or other Council Land within the Municipal District to be an Alcohol Free Area, whether that declaration is unconditional, or limited to times of the day, days of the year, defined public holiday periods, special events and/or particular places.

(2) The Council must erect and maintain or cause to be erected and maintained in those of the Municipal District declared alcohol-free, a sign which indicates the boundaries and times of the Alcohol Free Area.

(3) A Person must not, without a Permit, consume Liquor, or have in his or her possession or control any Liquor other than Liquor in a container with an unbroken seal in any area of the Municipal District declared alcohol free by Council.

Penalty: 10 Penalty Units

(4) Where a Permit to consume Liquor in any Alcohol Free Area is granted with a condition that no glass containers shall be provided, used or brought into the area for the purposes of the Permit, no person may provide or use or bring into the area any glass container.

Penalty: 10 Penalty Units
Areas declared alcohol free by Council resolution, as determined by the Council from time to time, are incorporated in Schedule 2 to this Local Law.

69. EXEMPTION

A Person who consumes Liquor or has in his or her possession Liquor in an unsealed container does not commit an offence if:

(1) he or she is taking part in a Procession, function, Street Festival or other activity on a Road or on or in a Municipal Reserve in respect of which the Council has granted permission and in accordance with any other permit or licence required under any Act; or

(2) he or she is in Licensed Premises or an extension of Licensed Premises in respect of which the use of the area for consumption and possession of Liquor in unsealed containers is permitted and in accordance with any other permit or licence required under any Act.

(3) in respect of an Alcohol Free Area declared under Clause 68, a sign has not been erected or maintained indicating that the area is declared an Alcohol Free Area.

70. SMOKING IN DECLARED SMOKE FREE AREAS

(1) The Council may, by resolution, declare in part or whole any Municipal Place, Road or other Council Land within the Municipal District to be a Smoke Free Area in accordance with the Guidelines incorporated in Schedule 1 to this Local Law.

(2) The Council must erect and maintain or cause to be erected and maintained in those parts of the Municipal District declared smoke-free, a sign which indicates that the area has been declared a Smoke Free Area.

(3) A Person must not smoke in or on any part of the Municipal District that has been declared by the Council to be a Smoke Free Area and has a Smoke Free Area sign erected and maintained.

Penalty: 10 Penalty Units

Guidelines for the declaration of smoke free areas are incorporated in Schedule 1 to this Local Law.
PART 9 PUBLIC PLACES, PARKS AND RESERVES, AND COUNCIL BUILDINGS

PUBLIC PLACES

71. BEHAVIOUR IN MUNICIPAL PLACES – PROHIBITIONS

Council’s Municipal Places refers to all those areas controlled and managed by the Council, whether buildings, reserves, roads, or other places. These places are public assets and exist for the provision of services to the public and as workplaces for employees and contractors of the Council. They also exist to enhance the environment of the municipality and are for the enjoyment, comfort and amenity of the community generally.

A Person must not, while in a Municipal Place, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Municipal Place by any other Person.

Penalty: 10 Penalty Units

Guidelines for determining whether behaviour in a municipal place is in breach of this Local Law, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

72. DAMAGING/DEFACING A MUNICIPAL PLACE

A Person must not, unless employed, authorised or contracted by the Council for the purpose, do the following in or on a Municipal Place:

(1) destroy, damage or interfere with a Municipal Place;
(2) destroy, damage, remove, plant or interfere with a Tree or plant on or within a Municipal Place;
(3) remove anything belonging to the Council from any Municipal Place unless allowed by the Council, whether under this Local Law or otherwise; or
(4) destroy, damage or interfere with any other property or assets owned or managed by the Council, located in or on any Municipal Place.

Penalty: 20 Penalty Units
73. **INTERFERENCE WITH A WATER COURSE ETC**

A Person must not, without a Permit or unless employed or contracted by the Council for the purpose, destroy, damage or interfere with a water course, ditch, creek, gutter, drain, tunnel, bridge, levee, culvert, or any directly adjoining fence or foreshore of a waterway, vested in or under the control of the Council.

Penalty: 20 Penalty Units

*Guidelines for granting a permit under this clause are the same guidelines as determining whether to grant either a road opening or drainage tapping permit in Part 7, Business and Builders, under Clause 61 – Occupying or Opening a Road / Drainage Tapping or an asset protection permit under Clause 65 – Asset Protection – Building Works on Private Land.*

74. **OBSTRUCTIONS ON COUNCIL LAND**

Where, in the reasonable opinion of an Authorised or Delegated Officer, a rubbish container, clothing recycling bin, movable structure, device, material or other object on Council Land is:

1. causing an obstruction;
2. a danger to any Person; or
3. in the way of or likely to obstruct traffic,

the rubbish container, clothing recycling bin, movable structure, device, material or other object will be dealt with in accordance with Schedule 11 to the Act, and the owner, occupier and/or Person responsible for the placement and location of the object is liable to an offence under this Local Law.

Penalty: 15 Penalty Units

*Clause 5 of Schedule 11 of the Local Government Act 1989, as amended from time to time, is incorporated in Schedule 2 to this Local Law.*

*See also the following clauses in this Local Law (and the Guidelines in Schedule 1):*

- Part 6 – Roads, Livestock, Movements and Vehicles: Clause 46 – Placing Bulk Rubbish Containers; and
- Part 7 – Business and Builders: Clause 60 – Trade Waste Bins and Waste Hoppers (including all Trade Recycling Bins).*


### PARKS AND RESERVES

(Note - Local Laws controlling Municipal Places (clauses 71 -74) also apply to 'Municipal Reserves')

#### 75. BEHAVIOUR WITHIN A MUNICIPAL RESERVE - PROHIBITIONS

Municipal reserves, including open space, flora, fauna and the built and natural environment are for the enjoyment of the community, the enhancement of public assets and the protection of the environment.

A Person must not, while in a Municipal Reserve, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Municipal Reserve by any other Person.

Penalty: 10 Penalty Units

Guidelines relating to whether behaviour in a municipal reserve constitutes an offence, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

#### 76. USE OF MUNICIPAL RESERVES – PERMITS

Municipal reserves, including open space, flora, fauna and the built and natural environment are for the enjoyment of the community, the enhancement of public assets and the protection of the environment.

Any activity which goes beyond the quiet enjoyment of a municipal reserve by individuals and small groups requires a permit to ensure the fair sharing of limited public open space and the maximum enjoyment of the community.

A Person who is required by this Local Law to obtain a Permit in order to use a Municipal Reserve in a specified way must not use the Municipal Reserve in this way without a Permit.

Penalty: 10 Penalty Units

Guidelines for uses requiring a permit, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.
77. ACCESS TO MUNICIPAL RESERVES

(1) Except as determined otherwise by the Council or an Authorised or Delegated Officer, all Municipal Reserves are open to the public on any day.

(2) The Council or an Authorised or Delegated Officer may, in the case of any Municipal Reserve, set aside days and times upon which charges or entrance fees may be made for the use of the Municipal Reserve.

(3) The Council or an Authorised or Delegated Officer may restrict access to any part of a Municipal Reserve, whether for temporary works, for long or short-term lease use or any other purpose, and public access to such restricted areas may be non-existent, limited by condition or subject to a fee or donation.

(4) A Person must not enter any Municipal Reserve, whether open to the public or subject to restricted access, other than via designated access points (where applicable), during hours of opening and subject to any conditions, fee or donation imposed, unless directed otherwise by a member of Council staff or authorised contractor in the course of their employment.

Penalty: 10 Penalty Units

78. CAMPING ON COUNCIL LAND

(1) A Person must not, without a Permit, camp on Council Land whether in the open or in a tent, Campervan or other temporary or makeshift structure unless the Person is within a licensed caravan park or a Camping Area.

Penalty: 10 Penalty Units.

(2) A Person who has obtained a Permit under Sub-clause (1) or is camping in a designated Camping Area must comply with the requirements of Council in relation to tidiness, waste disposal, toilet facilities, and campfires, as set out in the Guidelines for camping on Council Land incorporated in Schedule 1 to this Local Law.

Penalty: 10 Penalty Units

Guidelines for camping in areas made available by the Council, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

Subject to a permit, camping on private land may also be allowed. See Part 5 Your Property, Trees and Animals Clause 33 – Camping on Private Land.
79. **LIGHTING FIRES ON COUNCIL LAND**

(1) A Person must not, without a Permit, light or cause to be lit any fire in or on any Municipal Place or any Council Land other than a camp fire in a designated Camping Area or a permanent or portable Barbeque.

(2) A Person must not, without a Permit, use or congregate around a fire which has been lit in or on any Municipal Place or any Council Land other than a camp fire in a designated Camping Area or a permanent or portable Barbeque.

(3) A Person who, without a Permit lit or caused to be lit any fire, or a Person who assisted in or has been party to the preparation for the lighting of a fire by another in or on any Municipal Place or any Council Land other than a camp fire in a designated Camping Area or a permanent or portable Barbeque, must not allow that fire to remain alight.

Penalty: 20 Penalty Units

(4) A member of Council staff or a Person contracted or authorised by the Council for the purpose may, without a Permit, undertake controlled burning-off as part of normal scheduled parks maintenance on any Council Land.

*Guidelines for granting a permit for under this clause are the same guidelines as determining whether to grant a permit for the use of a municipal reserve under Clause 76 – Use of a Municipal Reserve – Permits.*

80. **FILMING ON COUNCIL LAND**

(1) A Person must not, without a Permit, undertake any Filming on any Council Land where the film is for any commercial purpose and/or television broadcasting purpose other than news broadcasting and involves film crews and the exclusive use of Council Land.

(2) In addition to the requirement to obtain a Permit in accordance with Sub-clause (1), all requirements contained in any Permit, policy or protocol adopted by the Council and relevant to that activity must be complied with.

Penalty: 10 Penalty Units
81. PARKING ON MUNICIPAL RESERVES

(1) A Person must not, without a Permit, park any motor car, motor cycle or other motor vehicle on any part of any Municipal Reserve other than in any parking area set aside for that purpose by the Council or agreed to by the Council or an Authorised or Delegated Officer.

Penalty: 5 Penalty Units

(2) Sub-clause (1) does not include any employee or contractor of the Council acting in the course of his or her employment.

Guidelines for granting a permit for under this clause are the same guidelines as determining whether to grant a permit for the use of a municipal reserve under Clause 76 – Use of a Municipal Reserve – Permits.

Note that ‘Municipal Reserve’ includes all Council reserves and any public reserve and waterway over which this Local Law has jurisdiction.

82. USE OF WHEELED NON-MOTORISED RECREATIONAL DEVICES AND WHEELED CHILD’S TOYS

(1) The Council may, by resolution, designate areas in which Wheeled Non-Motorised Recreational Devices and/or Wheeled Child’s Toys must not be used.

(2) If the Council designates areas in which Wheeled Non-Motorised Recreational Devices and/or Wheeled Child’s Toys must not be used, it must cause signs to be erected in or on the areas designated by it, clearly indicating the location and extent of the area in which Wheeled Non-Motorised Recreational Devices or Wheeled Child’s Toys (as the case may be) must not be used.

(3) A Person must not use a Wheeled Non-Motorised Recreational Device and/or Wheeled Child’s Toy in an area designated by the Council as an area in which the use of such is prohibited.

Penalty: 10 Penalty Units

(4) Where the Council fails to erect and maintain signs under Sub-clause (2), no Person may be prosecuted for an offence against Sub-clause (3).

Areas declared free of wheeled non-motorised recreational devices and/or wheeled child’s toys by Council resolution, as determined by the Council from time to time, are incorporated in Schedule 2 of this Local Law.
83. **USE IN NON-DESIGNATED AREAS**

(1) Where any Person continues to use a Wheeled Non-Motorised Recreational Device or Wheeled Child’s Toy in contravention of Clause 82 (3) after an Authorised Officer has issued a warning to the user, the Wheeled Non-Motorised Recreational Device or Wheeled Child’s Toy (as the case may be) may be removed by an Authorised Officer and impounded.

(2) When a Wheeled Non-Motorised Recreational Device or Wheeled Child’s Toy has been impounded, there must be compliance with the provisions of Clause 15.

**COUNCIL BUILDINGS**

(Note – Local Laws controlling Municipal Places (clauses 71 -74) also apply to ‘Municipal Buildings’.)

84. **BEHAVIOUR IN A MUNICIPAL BUILDING – PROHIBITIONS**

A Person must not, while in a Municipal Building, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Municipal Building by any other Person.

Penalty: 10 Penalty Units

Guidelines for determining whether behaviour in a municipal building is an offence, as determined by the Council from time to time, are incorporated in Schedule 1 to this Local Law.

85. **AVAILABILITY AND HIRE**

(1) A Person must not organise or undertake any event in a Municipal Building without the consent of the Council.

Penalty: 10 Penalty Units

(2) During any period for which a Municipal Building or any part of it has been hired out, the Manager may refuse admission to it to any Person who is not connected with the hiring purpose.
PART 10 - ENFORCEMENT AND PENALTIES

86. OFFENCES

(1) Where any provision in this Local Law prohibits any act or thing, any Person who contravenes such provision is guilty of an offence.

(2) Where any provision in this Local Law prohibits any act or thing between specified hours of the day or night or during specified months of the year or on certain days or in or at specified locations or specified parts of those locations, any Person who contravenes such provisions is guilty of an offence.

(3) Where any Permit, or exemption from a Permit, issued under this Local Law contains conditions, any Person who contravenes or fails to comply with such a condition is guilty of an offence.

Penalty: 10 Penalty Units

(4) Where any provision in this Local Law requires an act or thing to be done, any Person who is required to do the act or thing but does not do it contravenes such provision is guilty of an offence.

(5) Any Person who is guilty of an offence against this Local Law is liable to the penalty indicated in respect of that offence, or if no such penalty is indicted, a penalty of:

(a) five (5) Penalty Units for a first offence; and

(b) ten (10) Penalty Units for any second or subsequent offence.

87. PENALTIES

Schedule 5 to this Local Law sets out penalties for Infringement Notice purposes which may be issued as an alternative to prosecution in respect of non-compliance with this Local Law, where the Council or an Authorised or Delegated Officer determines to proceed by Infringement Notice.
88. **INFRINGEMENT NOTICES AND APPEALS UNDER LOCAL LAWS**

(1) An Authorised or Delegated Officer may serve an Infringement Notice or any other notice under this Local Law on a Person who has committed an offence requiring the Person:

(a) in the case of an Infringement Notice, to pay the penalty (or comply with other conditions) for that offence within no less than 28 days of the issue of an Infringement Notice; or

(b) in the case of any other notice, to comply with the other conditions within any other nominated period.

(2) If the Infringement Notice or any other notice is not withdrawn and the Person either pays to the Council the amount referred to in the Infringement Notice within the period of 28 days or such further period as the Council or an Authorised Officer may allow, or complies with the conditions of any other notice, no conviction will be recorded against that Person for the alleged infringement.

(3) If a Person issued with an Infringement Notice (or any other notice under the Local Law) makes a written representation, within 28 days of the issue of an Infringement Notice or other notice, to the Council, the Chief Executive Officer, a Senior Officer or to any other member of Council's staff, the representation must be brought to the attention of an Authorised or Delegated Appeals Officer.

(4) An Authorised or Delegated Appeals Officer who is separate from the Officer issuing the Infringement Notice or other notice, must consider any written representations and any other relevant information and must consider and decide upon any such material within 28 days of the representations concerning the issue of an Infringement Notice or other notice being received by the Council.

(5) Subject to Clause 11 the decision of the Authorised or Delegated Appeals Officer (whichever has the matter referred to him or her on any representations received) will be final.

(6) The Council or an Authorised or Delegated Officer may at any time within 42 days withdraw an Infringement Notice or other notice either as a result of consideration of any representations made or with a view to prosecuting for an offence.

(7) Where an Infringement Notice is withdrawn, the Person upon whom it was served is entitled to a refund of any payment that has already been made by that Person on the Infringement Notice.

(8) If the penalty referred to in an Infringement Notice has been paid within 28 days of its issue and no representation has been received by the Council or its officers or staff, no decision may be made to withdraw the Infringement Notice and prosecute the offence after the expiry of 28 days from the issue of the Infringement Notice.
(9) Any withdrawal of an Infringement Notice or any other notice under this Local Law may be served in accordance with section 234 of the Act.

(10) If a Person fails to comply with required conditions contained in any notice other than an Infringement Notice, an Authorised or Delegated Officer may issue an Infringement Notice for the failure to so comply and also, if the circumstances warrant, for the original infringement. All Sub-clauses in this Clause applying to Infringement Notices then apply to those Infringement Notices.

(11) In the event of the failure of a Person served with an Infringement Notice to pay the amount specified within 28 days of the issue of the notice or such further time as the Council or an Authorised or Delegated Officer may permit, the Council or the Authorised or Delegated Officer may pursue the matter by prosecuting for an offence.

(12) Any Person served with an Infringement Notice is entitled to disregard the notice and defend the prosecution in Court.

(13) All Infringement Notices whether issued under the Local Government Act 1989 or some other empowering legislation are covered by the processes and procedures of the Infringements Act 2006, except that Infringement Notices issued under Local Laws made pursuant to powers from the Local Government Act 1989, may not be lodged with the Infringements Court. This means the penalties imposed by such Infringement Notices are enforced directly by prosecution in the Magistrates' Court.

(14) Any Person served with an Infringement Notice should be notified on that Infringement Notice whether the power exercised to issue the Infringement Notice is derived from the Council’s Local Laws (and thereby the Local Government Act 1989), or from some other empowering legislation, in which latter case Council has the additional avenue to enforce penalties by lodgement of the Infringement Notice with the Infringement Court.

(15) The provisions of this Clause are to be read subject to the Infringements Act 2006.

89. DELEGATION

In accordance with section 114 of the Act, the Council:

(1) delegates to the Chief Executive Officer, each Senior Officer and to any Person for the time being acting for such Persons all the powers, discretions, authorities and considerations of the Council, except this power of delegation, under this Local Law including (but not limited to) the powers, discretions and authority, subject to any Guidelines and Council Policies incorporated in the Local Law, to issue or refuse Permits, fix conditions and durations relevant to such Permits, cancel Permits, require additional information, apply Guidelines and Policies of the Council, consider appeals and, waive the need for any Permit or waive or fix or reduce any fee or charge or to do any act, matter or thing necessary or incidental to the performance or exercise of any function or power by the Council;
(2) delegates to the Municipal Environmental Health Officer and any Authorised or Delegated Officer and to any Person for the time being acting for these Persons the power, subject to any Guidelines and Council Policies incorporated in the Local Law, to issue or refuse Permits and apply conditions, exercise discretions, require additional information and apply guidelines or policies of the Council in respect of Permit applications, exemptions and waivers; and

(3) delegates to each Authorised Officer the powers, discretions and authorities to act on behalf of the Council in exercising any discretion of the Council in accordance with the Guidelines specified in this Local Law, the issue of Infringement Notices and the undertaking of prosecutions.
**SCHEDULE 1 – DISCRETION GUIDELINES**

Local Law No. 1 ‘Community Amenity’ 2012

*Note that the Guidelines in this Schedule have the same numbers (and titles) as their equivalent clauses in the Local Law. As a result, the Guidelines are numbered in ascending order, but have gaps in their sequential numbering equivalent to the local laws that have no guidelines.*

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12. POWER OF AUTHORISED OR DELEGATED OFFICER TO DIRECT: NOTICE TO COMPLY

These Guidelines, as determined by the Council from time to time, are incorporated in this Local Law for a Notice to Comply.

When considering whether to issue a Notice to Comply, an Authorised or Delegated Officer must have regard to the following guidelines:

(1) A Notice to Comply must state:
   (a) the time within which the breach (to which the Notice to Comply relates) must be remedied;
   (b) any consequence or penalty that may apply if the person served with a Notice to Comply fails to remedy a situation in accordance with the Notice to Comply;
   (c) the following procedural matters:
      (i) whether the power exercised to issue the Notice to Comply is derived from Council’s Local Laws (and thereby the Local Government Act 1989), in which case Council’s decision is final on any appeal about any matter or penalty related to that Notice to Comply, or
      (ii) or whether the power is derived from some other empowering legislation, in which case there is be a right of judicial review of any appeal decision by Council on any matter or penalty related to that Notice to Comply.

(2) The time specified in a Notice to Comply must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied but should take into account, if applicable:
   (a) the amount of work to be performed in order to observe the Notice;
   (b) the degree of difficulty;
   (c) the availability of necessary materials or other necessary items;
   (d) climatic conditions;
   (e) the degree of risk or potential risk; and
   (f) any other relevant factor that the Authorised or Delegated Officer reasonably believes is relevant in the circumstances.

Appeal processes which apply to any Infringement Notices issued under this Local Law also apply to Notices to Comply. See Part 10 Enforcement & Penalties: Cl.88. Infringement Notices & Appeals Under Local Laws.
14. **POWER OF AUTHORISED OR DELEGATED OFFICER TO ACT IN URGENT CIRCUMSTANCES**

These Guidelines as determined by Council from time to time are incorporated in this local law for Urgent Circumstances.

When considering whether action to remedy Urgent Circumstances exists, an Authorised or Delegated Officer will apply the following guidelines:

What is regarded as urgent circumstances and whether action should be taken will depend on the circumstances of each situation. Factors to be taken into consideration may include:

(1) **Where:**
   
   (a) the person by whose default, permission or sufferance the situation has arisen; or  
   
   (b) the owner or the occupier of the premises or property affected;  
   
   is not known or cannot be found.

(2) **The right of directly concerned persons to be heard,** whether owner or occupier or some other person, provided in the reasonable belief of the Authorised or Delegated Officer this will not cause unacceptable delay in rectifying or reducing an urgent risk.

(3) **Where,** in the opinion of the Authorised Officer, there exists an urgent risk or threat to:
   
   (a) public health;  
   
   (b) public safety;  
   
   (c) the environment; or  
   
   (d) animal welfare.

(4) **Whether the need to take action is sufficiently urgent,** and that the time involved or difficulties associated with the serving of a written warning or Notice to Comply may place a person, or any animal, property or thing at risk or in danger;

(5) wherever practicable, a Senior Officer is given prior notice of the proposed action; and  

(6) **details of the failure and remedying action are,** as soon as possible, forwarded to the person on whose behalf the action was taken.

(7) **The urgent action taken by an Authorised or Delegated Officer must not extend beyond what is necessary to cause the immediate abatement of or to minimise the risk or danger involved.**

(8) **An Authorised or Delegated Officer who takes urgent action must ensure that,** as soon as practicable, a report of the action taken is submitted to the Chief Executive Officer.
15. **POWER OF AUTHORISED OR DELEGATED OFFICER TO IMPOUND**

*These Guidelines for the exercise of the Power to Impound as determined by Council from time to time are incorporated in this local law.*

When considering and/or exercising the Power to Impound (and dispose of), an Authorised or Delegated Officer must have regard to the following guidelines:

(1) As soon as possible after the impounding and where it is practicable to do so, the Authorised Officer will serve a Notice of Impounding, in a form as amended from time to time and incorporated in Schedule 3, on the owner or persons responsible for the animal or thing which has been impounded setting out the fees and charges payable and time by which the animal or thing must be retrieved.

(2) If an impounded animal or thing is not retrieved within the time specified in the Notice of Impounding, an Authorised Officer may take action to dispose of the impounded animal or thing.

(3) If the identity or whereabouts of the owner or person responsible for the impounded animal or thing is unknown, the Authorised Officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with paragraph (4) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded animal or thing.

(4) In disposing of an impounded animal or thing an Authorised or Delegated Officer will have regard to the following:

Council’s policy for the disposal of unrecovered impounded items is as follows:

(a) Where the item is declared by the Authorised or Delegated Officer to have no saleable value, it may be disposed of in the most economical way, as determined by the Authorised or Delegated Officer.

(b) Where the item is declared by the Authorised or Delegated Officer to have some saleable value, the item may be disposed of by tender, public auction or private sale, or failing sale may be given away or disposed of at the discretion of that Authorised or Delegated Officer.

(c) When choosing which method of disposal by sale, the Authorised or Delegated Officer will consider the following matters:

(i) If the total estimated value of the impounded animal or thing is unknown, expert advice should be sought to obtain an estimate of its value;

(ii) If the estimated value exceeds $2,000, disposal should be by way of tender or public auction first, and only by way of private sale if the animal or thing fails to sell by tender or public auction.
(iii) Sale of impounded animals or things by any means and of any value must be fully documented and reported to Council Executive by the Authorised or Delegated Officer.

(5) Any proceeds from the disposal of an impounded animal or thing under this Local Law will be paid to the owner or the person who, in the opinion of the Council, appears to be authorised to receive the money less the reasonable costs and expenses incurred by the Council in the administration of this clause.

(6) In the event that the person described in paragraph (5) cannot be identified or located within six (6) months of serving the Notice of Impounding, any proceeds described in that paragraph cease to be payable and may be retained for municipal purposes.

Appeal processes which apply to any Infringement Notices issued under this Local Law also apply to Notices to Impound. See Part 10 Enforcement & Penalties: cl.88. Infringement Notices & Appeals Under Local Laws.

17. PERMITS - GENERAL GUIDELINES

These Guidelines as determined by Council from time to time are incorporated in this local law in relation to permits.

(1) In relation to the exercise of the discretion under this Local Law for the processing of permit applications and the issuing of permits, an Authorised or Delegated Officer shall take into account all of the following factors, considerations and circumstances, as well as any other matters in any other guidelines specific to the type of permit being sought:

(a) whether additional information is required before dealing with an application;

(b) whether the appropriate fee or charge has been paid or made subject to an approved payment system, which must occur before the application can be processed;

(c) whether or not public notice, or written notice to specified adjoining landholders or other parties, of the permit application inviting submissions, should has been or will be made;

(d) whether the applicant is a Service Authority or a person employed by or acting on behalf of a Service Authority that is not required to obtain a Permit in respect of activities for the purposes of the Service Authority, although is nevertheless required to notify the Council of any activity prior to its commencement;

(e) whether the applicant has been exempted by Council from a requiring a permit, although this exemption may be subject to certain conditions being met and maintained during the term of an exemption and the exemption may be modified or cancelled in the same way as a permit.
(f) whether the rectification, remedying or restoration of a situation or circumstance is required prior to issuing or as a condition of any permit;

(g) before issuing a correction to a Permit, whether the value, importance and impact of any correction warrants that correction when compared with those works already undertaken or expenses already incurred under the existing permit that might be adversely impacted in time lost and/or new expense to the Permit Holder by the issue of the correction to the Permit

(h) whether the consent of the owner has been obtained where the applicant is not the owner of the property for which the Permit is sought;

(i) whether this application is or should be conditional upon the granting of some other Permit which may be required by the Council whether under this Local Law or otherwise;

(j) whether the Permit should be subject to the happening of an event;

(k) in what way a time limit should be applied by specifying the duration, commencement or completion date; and

(l) any other matter which the Council officer reasonably believes in the circumstances is relevant to the exercise of this discretion.

Standard permit conditions, in addition to conditions applicable to any specific type of Permit, apply to all Permits issued by Gannawarra Shire Council and as amended from time to time are incorporated in Schedule 3 of this local law.

20. EXEMPTION FROM PERMIT OR PERMIT FEE

These Guidelines as determined by Council from time to time are incorporated in this local law for Permit Exemptions and Permit Fee Waivers.

Council’s Permit system and associated fee structure is designed to ensure sound fair and accountable management of Council’s assets and responsibilities. Council’s fee structures already make allowance for community users. Standard Permit Conditions inform Permit holders of their rights of appeal.

Therefore, in the serious matter of considering whether to recommend a Permit Exemption or Fee Waiver, Council or an Authorised or Delegated Officer must have regard to the following guidelines:

(1) Only a Director, the CEO or Council itself may authorise an Exemption from a Permit or a Fee Waiver, therefore any recommendation for such an exemption or fee waiver must be made in writing to the responsible Director, CEO or as a Report to Council.

(2) Each request for an exemption from a Permit or Fee Waiver must be treated on its individual merits considering the factors set out below, but in the absence of clear or strong justification, should not be recommended.
(3) All of the following matters are to be taken into consideration:

(a) Why do the normal Permit and its relevant Fee structure not work in this case and can these matters be resolved?

(b) Is the proposed activity or other behaviour of such a kind as to be not contemplated by or capable of being encompassed within the standard relevant Permit or Permit Fee Structure?

(c) Is this matter better dealt with under section 14 of this Local Law Power of Authorised Officers to Act in Urgent Circumstances, or by a Notice to Comply under section 12, or by reference to Commercial Services to negotiate a long-term Council Lease agreement?

(d) Would an Exemption from a Permit or Waiver of a Permit Fee seriously increase public risk or Council liability from the proposed activity or behaviour?

(e) What overriding Council policy or public good is involved to recommend a Permit Exemption and/or Permit Fee Waiver, which will be seriously inhibited or prevented by the required Permit or relevant fee? For example, a genuine scientific research project being undertaken on behalf of recognised research organisation such as a University, Government Department or CSIRO.

(f) How will the community of Gannawarra benefit directly or indirectly from the planned activity, which will be seriously inhibited or prevented by the required Permit or relevant fee?

(g) Are there overriding special circumstances related to an individual’s or a group’s personal disadvantage that would consequentially be unfairly or unjustly impacted by the normal required Permit or relevant fee?

(h) Would issuing this Permit Exemption and or Permit Fee Waiver set a public policy precedent for similar applications, in which case, should any recommendation be subject to Council approval?

(i) What are the appropriate conditions, limitations (including time limitations and public liability insurance) which should be included in any letter of Exemption from a Permit or Waiver of Permit Fee?

(j) Has the Applicant party been warned that Permit Exemptions and Permit Fee Waivers may be subject to conditions and may be cancelled or varied at any time if those conditions are broken?
YOUR PROPERTY, TREES, STOCK AND PETS

YOUR PROPERTY

25. ROAD NAMES: REQUIREMENTS FOR SELECTING A NAME

These Guidelines for determining street names as determined by Council from time to time are incorporated in this local law.

(1) In determining whether to allow a person to apply a name to a Road or whether to give a name to a Road or whether to change the name of a Road, the Council must take into account any binding policy made under the Geographic Places Names Act 1998 and the following:

(a) whether the name is likely to be confused with the name of another Road in the area;

(b) whether the name would duplicate the name of another separate Road in the same post code area;

(c) whether there will be a significant impact on any businesses;

(d) whether a loop Road is named in such a way that two separate intersections involve Roads with the same two names or similar names; and

(e) whether the same name would apply to separate lengths of Road which are separated by physical obstruction to vehicular travel, within the same postcode area;

(2) In a case described in sub-clause (1)(b), the Council must also take into account the principle that the same first part of the name, but with a different second part (eg. street, avenue etc.) may be used in the same postcode area, where one Road leads directly to another.

(3) Place names should have some sense of connection to the areas in which they are applied. This could relate to things such as Indigenous culture and occupation of the land, local flora and fauna, European exploration and settlement, local geography and geology, significant events, the cultural diversity of past and current inhabitants, or patterns of land usage and industrial/mineral/agricultural productions. Living persons names should not be used.

(4) A report will be submitted to Council outlining the process, which has been undertaken and provide a list of suggested names. The Council will need to make a judgement on the appropriateness of the names suggested. If residents or the persons with an interest wish to make submissions to Council it will need to be undertaken with the consent of Council at a time the Council deems appropriate.

(5) The Council must keep a record of all road names and name changes agreed to by the Council and must accurately record the names, locations and the dates the changes became operative.
(6) Once the Council adopts the name of the road or reserve, The Registrar of Geographic Names will be notified in writing with maps which clearly identify the location of the area in question and any other supportive information.

26. PROPERTY NUMBERS: SIZE, LOCATION AND VISIBILITY

These Guidelines as determined by Council from time to time are incorporated in this local law for determining the sufficiency of size location and visibility of property numbers.

In determining whether a property number meets the requirements of Property Numbers under sub-clause (2), the Council or an Authorised or Delegated Officer must take into account the following guidelines:

(1) the size of the property number;
(2) the accuracy and completeness of the property number;
(3) the state of repair of the property number having regard to its visibility;
(4) the colour of the property number;
(5) the legibility of the property number from the road immediately adjacent to the front boundary of the property having regard to all or any of:
   (a) its size, accuracy and completeness;
   (b) its state of repair;
   (c) its colour;
   (d) its distinction from its background; and
   (e) its freedom from obstruction; and
(6) any other matter the Authorised or Delegated Officer reasonably believes is relevant.

27. UNSIGHTLY LAND

These Guidelines as determined by Council from time to time are incorporated in this Local Law to determine whether an owner or occupier is maintaining unsightly land.

In determining whether the owner or occupier of land is maintaining unsightly land contrary to the Local Law an Authorised or Delegated Officer must consider whether one or more of the following factors exist. Whether the land:

(1) is neglected or inadequately maintained, especially land of less than 0.2 hectares within a township or is to the detriment of the general amenity of the immediate neighbourhood;
(2) is used to store or collect unsightly waste or scrap materials, disused vehicles, unsightly excavation materials or second hand goods in unnecessarily untidy and visible manner, or clearly detrimental to the general amenity of the area;
(3) harbours unconstrained vermin, rubbish or waste material;
(4) has undergrowth, weeds or uncut grass exceeding 300mm on a block of less than 0.2 hectares, or any other height if considered a fire hazard by the Municipal Fire Prevention Officer;

(5) any other matter which in the reasonable opinion of the Authorised or Delegated Officer is relevant to the offence.

29. DOMESTIC WASTE INCLUDING RECYCLABLE AND HARD RUBBISH COLLECTIONS

These Guidelines as determined by Council from time to time are incorporated in this Local Law to determine whether the occupier of every dwelling or other land where the Council provides a garbage service is compliant with Council’s domestic waste, recyclable and hard rubbish collection services. Council provides a compulsory waste collection in most townships including Cohuna, Cohuna Golf Links Estate, Kerang, Koondrook, Lake Charm, Lalbert, Leitchville, Murrabit, Mystic Park, and Quambatook, and may provide an optional cost-based service by agreement to rural residences, commercial and industrial properties.

In determining whether occupiers of properties provided with a domestic waste service by Council are complying with Council’s requirements, an Authorised or Delegated Officer must follow these guidelines.

(1) Use of Bins

All domestic waste must be placed in rubbish bins ready for collection except that rubbish bins awaiting collection must not be placed on the nature strip, or any other place of collection outside the property boundary, any more than 24 hours prior to the collection day specified by Council from time to time.

(2) Storage of Bins

All domestic waste bins must be stored and maintained in a clean and sanitary condition on the property to which they have been issued.

(3) Construction of Bins

The bins used should be in accordance with the Council’s policy and procedures as determined by the Council from time to time.

(4) Prohibited Waste

The following material is prohibited from being placed in rubbish bins for collection by the Council:

(a) slops, liquid waste, harmful or offensive material;

(b) dirt, dust, or other matter from any vacuum cleaner, ashes, hair or other similar matter or moist refuse, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;

(c) ashes or other like matter unless they have been mixed with water to form a consistency of a stiff paste before being wrapped and placed in the bin;
(d) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;

(e) oil, paint, solvents, acids or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness;

(f) trade wastes of any kind; and

(g) any other matter identified by the Council by notice to occupiers of a property.

(5) Recycling and Hard Rubbish Collection

(a) Where the Council has notified occupiers of properties of a recycling or hard rubbish collection, or where an on-demand recycling or hard rubbish collection may operate, the material to be recycled and the hard rubbish to be collected must be left for collection in accordance with the Council’s instructions.

(b) Any materials placed on nature strip or road for recyclable material or hard rubbish collection in accordance with any instruction determined by the Council, must not be placed there earlier than 7 days prior to the nominated collection date.

(c) Any materials placed on nature strip or road for Recyclable Material or Hard Rubbish collection in accordance with any instruction determined by the Council but not collected, regardless of the reason, must be removed no later than 7 days after the nominated collection date.

(6) Removal of Bins and any Spillage

Once the waste has been collected by the Council, the empty bins must be returned to the property by the owner or occupier and any waste which has spilled onto the Road, nature-strip or surrounding area must be removed by the owner or occupier responsible for the bin within twenty-four (24) hours of collection.

(7) Cleanliness

Bins must be maintained in a clean and tidy manner so as not to cause any health threat or be offensive to any person.

(8) Flats and Units

The owner of any flats or units must provide a clearly defined storage area for the storage of containers and every occupier must keep the container allocated to the flat or unit in that defined storage area.

(9) Replacement of Containers

Where any container allocated to a property is damaged, lost or stolen the occupier of the premises must notify the Council as soon as possible and may be required to pay the costs of replacement.
31. OPEN AIR BURNING - GUIDELINES

In relation to the burning of materials in the open, these Guidelines as determined by Council from time to time, are incorporated in this local law for determining whether an offence has been committed and for the issue of a permit or an exemption.

(1) When determining whether an offence has occurred in relation to the burning of offensive materials in the open, Council or an Authorised or Delegated Officer must apply the following guidelines:

(a) Offensive materials that may not be burnt at any time include, but are not limited to, any substance containing any:

(i) manufactured chemical;

(ii) rubber or plastic;

(iii) petroleum, oil or petroleum-based product;

(iv) paint or receptacle which contains or which contained paint;

(v) food waste, fish or other offensive or noxious matter; or

(vi) any other material an Authorised or Delegated Officer reasonably believes is an offensive material.

(b) Offensive emissions of smoke and odour from outdoor burning do not include:

(i) the normal odour of food cooking on a permanent or portable barbeque; or

(ii) any emission of offensive smoke or odour from burning materials that the person responsible immediately extinguishes or otherwise prevents from continuing to enter any neighbouring property, and which does not recur within 14 days.

(2) When determining whether to grant a Permit for open air burning on a property between 0.5 and 2 hectares in a built up area, the Council or its Authorised or Delegated Officer must have regard to the additional guidelines set out below:

(a) if the land exceeds 2 hectares in a built up area no permit is required;

(b) if the fire is to be lit in a permanent or portable barbeque or a properly constructed fireplace including a metal brazier to be lit for heating purposes, no permit is required;

(c) the location of the proposed outdoor burning in proximity to adjoining land;

(d) the land-use of the applicant’s land and that of adjoining allotments where the burning is to take place;

(e) any alternative means of disposal;

(f) any adequate means of supervising the burning;
(g) any adequate means of controlling and extinguishing the spread of fire;
(h) the degree to which the material to be burnt are clean and dry or may produce offensive, toxic or unpleasant smells or smoke;
(i) the purpose stated for the burning and available alternative disposal methods;
(j) any relevant policies of the Environment Protection Authority; and
(k) any other matter an Authorised or Delegated Officer reasonably believes to be relevant to the circumstances of the application.

(3) When determining whether to grant an Exemption to any part of this Clause for open air burning, the Council or its Authorised or Delegated Officer must have regard to the additional guidelines set out below:

(a) whether special or unusual circumstances exist, such as an emergency, urgent circumstance, natural disaster or extremely low levels of risk versus high community benefit;
(b) the purpose for the burning, level of risk and available alternative disposal methods;
(c) the degree to which the material to be burnt may produce toxic or dangerous emissions or smoke;
(d) adequate means of supervising controlling and extinguishing the burning;
(e) if relevant and available the view of the CFA, Victoria Police or other relevant agency;
(f) any other exceptional matter Council, or the Authorised or Delegated Officer reasonably believes is relevant to the circumstances.

33. CAMPING ON PRIVATE LAND

These Guidelines as determined by Council from time to time are incorporated in this local law for determining whether to grant a Permit for Camping on Private land.

In determining whether to grant a Permit to allow camping in an area which is Private land and is not a licensed caravan park and has not been declared by the Council or an agency of the State Government to be a Camping Area, the Council or an Authorised or Delegated Officer must take into account the following guidelines:-

(1) the location of the land;
(2) the land-use of the applicant’s land and that of adjoining allotments;
(3) the suitability of the land for camping;
(4) the number of tents or other structures to be located on the land;
(5) the length of time the tents and other structures will be erected on the land;
(6) the availability of sanitary facilities to the land;

(7) the likely damage to be caused; and

(8) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.

(9) A person who is granted a permit by Council to camp or occupy a campsite on private land must also comply with the following conditions:

(a) At all times maintain the campsite in a clean and tidy condition;

(b) Prior to vacating the campsite remove all litter and other refuse from the site to a Council authorised disposal point;

(c) Not camp within 20 metres of any river, stream, spring, creek, dam, bore or watercourse;

(d) Not dispose of any soap, detergent or similar substance less than 50 metres from any river, stream, spring, creek, dam, bore or watercourse;

(e) Provide approved toilet facilities which include a facility for the burying of any faeces at least 100 metres from any river, stream, creek, dam, bore or watercourse; and

(f) Where directed by Council, provide and maintain an approved chemical toilet for use of all persons occupying or visiting the campsite.

(g) Dispose of the contents of any chemical toilet only at a Council approved site.

(h) Not light or maintain any campfire or campsite barbeque using solid fuel in the open air unless:

   (ii) The fire is contained in an approved fireplace or in a trench of at least 30 centimetres deep;

   (iii) The ground and airspace is clear of all potentially flammable material within a distance of 3 metres from the outer perimeter and uppermost point of the fire;

   (iv) The fire does not occupy an area exceeding one square metre;

   (v) The dimensions of any solid fuel used are the minimum necessary for the purpose; and

   (vi) Solid fuel does not exceed 1 metre in length.

34. SHIPPING CONTAINERS

These Guidelines as determined by Council from time to time are incorporated in this local law for issuing a permit for the storage, repair and/or use of a Shipping Container on Private land or on Council Land.
In determining whether to grant a permit for a Shipping Container on a Private land less than 0.5 hectares (excluding land zoned Farm Zone under the Municipal Planning Scheme) or on any Council Land an Authorised or Delegated Officer must follow these guidelines:

(1) The applicant must pay the entire fee for the permit prior to the processing of the application or the placement of the container.

(2) The permit for a Shipping Container must be time limited and will expire on the date entered on the Permit and the Shipping Container must be removed on or prior to the expiry date of the Permit unless a further permit is granted.

(4) The application or permit should inform the applicant of the safety requirements for the Shipping Container: that it is the permit holder’s responsibility to ensure the container does not represent an unacceptable risk to the health and safety of the public. Any concerns the Authorised or Delegated Officer may have about safety must be satisfactorily resolved prior to issuing the permit.

(5) If the Shipping Container is to be placed on Council Land, or if it will create a risk to public safety or an obstruction to traffic on private land, the applicant must provide, prior to being issued a permit, a Certificate of Currency for Public Liability Insurance covering the Shipping Container to an amount of no less than $10 million for a minimum period covering the duration of the proposed permit.

(6) The Shipping Container must be removed from any Council Land prior to the expiry of the permit holder’s Public Liability Insurance.

(7) The applicant must not intend to use or actually use the container as a permanent structure.

(8) The Shipping Container should not be detrimental to the visual amenity of the area.

(9) Any damage to Council property caused by the placement or removal of the Shipping Container, including pavement, nature strip and services, is to be reinstated by the permit holder. If reinstatement is not completed, works will be undertaken by the Council at the permit holder’s expense.

(10) The Container must not obstruct motorists’ vision or line of sight at intersections while pits, valve covers and hydrants must remain accessible.

(11) If the Shipping Container constitutes a traffic hazard or obstruction, the container must be mounted with yellow reflective tape on the corners of the containers, or lights which must be illuminated between sunset and sunrise and visible from a distance of 200 metres to prevent a hazard to the public.

(12) Any other matter an Authorised or Delegated Officer reasonably believes is relevant to the application.

*Permit Conditions for Shipping Containers are incorporated in Schedule 3.*
YOUR TREES

35. TREES PLANTS NOT TO OBSTRUCT OR OBSCURE

These Guidelines as determined by Council from time to time are incorporated in this local law for Trees and Plants not to Obstruct or Obscure.

In determining whether to issue a permit for overhanging trees, or whether there has been an infringement related to overhanging trees under this clause, an Authorised or Delegated Officer must have regard to the following Guidelines as to whether the overhanging trees:

(1) have been pruned to comply with the following requirements:

Canopies shall be lifted to provide the following clearances:

- Footpaths 2.4 m to lowest foliage or limb;

(2) obstructs the view between drivers of Vehicles at an intersection;

(3) obstructs the view between drivers of Vehicles and pedestrians where they come close to each other;

(4) obscures a Traffic Control Device from the driver of an approaching Vehicle or a pedestrian;

(5) obscures street lighting; or

(6) obstructs vehicular traffic; or

(7) otherwise constitutes a danger to Vehicles or pedestrians or compromises the safe and convenient use of a Road.

(8) The requirements for a clear view at intersections, pedestrian/vehicle conflict areas and traffic control devices are as follows:

(a) The view between vehicles at intersections:

Plants, fences and other obstructions must, wherever practicable, be kept to a maximum height of one (1) metre in the following areas:

(i) at signalised intersections

(A triangular area between the corner of each property at the intersection and a line drawn between points 3m back from the intersection.)

(ii) at major/minor intersections and roundabouts

(A triangular area in both directions from a minor Road, or to the right only at a roundabout)
(b) The view between vehicles and pedestrians:

Where pedestrians are likely to cross a Road or be in close proximity to a Road, plants must be no higher than 600mm above the ground for a distance of two (2) metres from the Road, except that trees with narrow, clean trunks may be planted (subject to any other requirements for safety and visibility), so long as their foliage is no lower than 2.4 metres above the ground.
YOUR ANIMALS

37. KEEPING ANIMALS

These Guidelines as determined from time to time are incorporated in this local law for determining whether an offence has occurred or whether to issue a permit for keeping animals.

This Table gives the maximum numbers and types of animals that may be kept on private land in each category without an excess animal numbers permit.

Table of Animal Numbers and Types

<table>
<thead>
<tr>
<th>Type of Animal</th>
<th>In Flats, Units Or Townhouses</th>
<th>On Land Less Than 0.5 Ha. # in a built up area</th>
<th>On Land 0.5 Ha. to 2 Ha.## * in a built up area</th>
<th>Farm Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dogs</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Cats</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Poultry (no roosters)</td>
<td>0</td>
<td>6</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Large or Noisy Birds (including Roosters)</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Pigeons</td>
<td>0</td>
<td>50</td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>Domestic birds (caged)</td>
<td>2</td>
<td>50</td>
<td>100</td>
<td></td>
</tr>
<tr>
<td>Horses/donkeys</td>
<td>Prohibited</td>
<td>0</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Cattle</td>
<td>Prohibited</td>
<td>0</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Sheep/goats</td>
<td>Prohibited</td>
<td>0</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Pigs</td>
<td>Prohibited</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Any other livestock</td>
<td>Prohibited</td>
<td>0</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>

# 0.5 hectares = 1.236 acres, 2 hectares = 4.94 acres

* Animal numbers on private properties exceeding 2 ha in built up areas are subject only to those restrictions applicable under the Municipal Planning Scheme.
In determining whether to grant a Permit for the keeping of Animals where the number exceeds that determined by the Council as set out in the Table above, the Council or an Authorised or Delegated Officer must take into account the following guidelines -

(1) whether a Planning Scheme Permit Application may be required, such as for boarding or breeding of animals;
(2) the land-use and size of the applicant’s land and that of adjoining allotments;
(3) the proximity of adjoining properties and dwellings;
(4) the amenity of the area;
(5) the type and additional numbers of Animals to be kept;
(6) the likely effects on adjoining owners;
(7) the adequacy of Animal accommodation and fencing; and
(8) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.

38. ANIMAL ACCOMMODATION

These Guidelines as determined by Council from time to time are incorporated in this local law for determining reasonable accommodation for kept animals.

In determining what is reasonable accommodation for kept animals and whether such accommodation is adequately maintained, an Authorised or Delegated Officer must consider the following guidelines.

(1) whether a Planning Scheme Permit Application may be required, such as for boarding or breeding of animals;
(2) the type of Animals to be kept and whether those animals are adequately secured within the property boundary;
(3) the height of the accommodation;
(4) the location of the accommodation having regard to the amenity of the area;
(5) the size of the accommodation in terms of its adequacy to house the proposed number and type of Animals;
(6) the security of the accommodation in terms of the Animals to be housed in it;
(7) whether all excreta and other waste are removed and/or treated as often as necessary so that they does not cause a nuisance or offensive condition;
(8) whether all excreta and other waste are stored in a fly and vermin proof receptacle until removed from the premises or otherwise disposed of to the satisfaction of the Municipal Environmental Health Officer;
(9) whether the ground surrounding the accommodation is drained to the satisfaction of the Municipal Environmental Health Officer;

(10) whether the area of land within three (3) metres of the area or structure in which the animal is kept free from dry grass, weeds, refuse, rubbish or other material capable of harbouring vermin;

(11) whether all food, grain or chaff is kept in vermin proof receptacles;

(12) poultry housing or similar animal housing must not affect the amenity of an area or neighbouring properties by noise or offensive odour; must have adequate roofing, drainage, be rat proof, have a floor paved with impervious material and must comply with any relevant Code of Practice.

(13) whether the area where Animals are kept is thoroughly cleaned and maintained at all times in a clean and sanitary manner to the satisfaction of the Municipal Environmental Health Officer; and

(14) any other matter/issue pertaining to the accommodation that the Authorised or Delegated Officer reasonably believes is relevant.
ROADS, LIVESTOCK & VEHICLES

43. LIVESTOCK ON ROADS – GRAZING & DROVING PERMITS

These Guidelines as determined by Council from time to time are incorporated in this local law for the issuing permits for either the grazing or droving of livestock on public roads.

When determining whether to issue a permit for the grazing or droving of livestock on a road and the conditions which should apply to that permit, an Authorised or Delegated Officer must apply the following guidelines.

(1) Requirements for a Permit for Grazing Livestock on Roads

(a) A permit must not be issued unless any part of the road can be grazed without threat to areas of high conservation status;

(b) A permit may be issued if the road or part of the road proposed to be grazed can be grazed without threat to areas of medium to low conservation value subject to conditions relating to seasonality, duration and intensity of grazing;

(c) the applicant for the permit must provide evidence to the satisfaction of Council:

(i) that the livestock will be adequately supervised and effectively controlled; and

(ii) there will be compliance with all the conditions of a permit; and

(iii) of an ability to adequately feed and water the livestock on the roads proposed; and

(d) at the time proposed, the road or any part of it is suitable for grazing, which can be undertaken without damage to surface, plants or adjacent structures;

(e) in respect of any declared Vic Roads’ roads, the permission of Vic Roads has been obtained;

(f) A person who is in charge of livestock which are being grazed on a road must ensure all of the following:

(i) the livestock are supervised and under effective control at all times by a person who is competent in the management of livestock;

(ii) the carcass of any livestock under that person’s charge which dies on a road is properly disposed of;

(iii) the livestock are grazed only during daylight hours;

(iv) signs conforming with the Road Safety Rules 2009 are in place;
(v) appropriate precautions are taken to ensure that no damage occurs to road surfaces, furniture, drains, culverts, bridges and private entrance ways or to trees and shrubs growing within the road reserve and that erosion is not caused by excessive grazing;

(vi) in the event that livestock are causing damage including where overgrazing occurs, they are removed from the road reserve;

(vii) the livestock are enclosed by an appropriate form of fencing or other control or removed from the road before daylight hours finish unless an authorised Officer agrees to some other level of supervision or overnight arrangement;

(viii) the person has a current public liability policy covering grazing livestock on roads and that proof of such policy is produced to the Council prior to the commencement of the grazing; and

(ix) an inspector of livestock administering the Livestock Disease Control Act 1994 is notified if the person in charge of such livestock becomes aware or suspects that livestock (or any of them) have a disease or has died of a disease listed as a notifiable disease under that Act; and

(x) he or she complies with the provisions of the Livestock Disease Control Act 1994 and the Prevention of Cruelty to Animals Act 1986;

(g) Any other matter the Authorised or Delegated Officer reasonably believes is relevant to the circumstances of the application.

(2) Requirements for a Permit for Droving Livestock on Roads

(a) Numbers of livestock: A permit may only be issued if the droving includes all of the following circumstances:

(i) no bulls in the herd;

(ii) 4,000 or less sheep;

(iii) 400 or less large cattle; or

(iv) 200 or less of any other livestock.

Except that a permit may be issued for a number of livestock greater than that listed in sub-clauses (2) (a) (ii), (iii), and (iv), if special circumstances can be demonstrated and all other requirements for the Droving of Livestock on Roads will be complied with. Special circumstances may include urgent circumstances or natural disaster conditions, the small number of excess animals concerned, the high skill level and expertise of the drover, and/or the acute financial hardship to be imposed by the strict adherence to livestock numbers.

Distance to be travelled: An Authorised or Delegated Officer must be satisfied that the livestock subject of the droving permit application are able to travel:
(i) seven kilometres each day (for livestock which are not cattle), or
(ii) nine kilometres each day (for cattle),
in one direction toward their destination.

(c) Roads to be travelled: The roads proposed to be travelled must not:

(i) be in use at the time proposed for the purpose of droving of other livestock;
(ii) be carrying such a volume of traffic or in such condition or being used for other purposes at the time proposed for droving that it would be impracticable; or
(iii) contain areas that have been designated by the Council as high or medium conservation status and the applicant cannot or is not prepared to give an undertaking to take all reasonable measures to ensure that such areas are protected to the satisfaction of the Authorised or Delegated Officer;

(d) Application Documentation: An Authorised or Delegated Officer must be satisfied that the owner, drover or the person in charge of the livestock has:

(i) paid all fees determined by the Council and provide any bond, guarantee or indemnity requested by the Council as security against road or adjacent fence or property damage;
(ii) provided satisfactory evidence to the Council of an ability to adequately water and feed the livestock and to safely contain them overnight;
(iii) provided a declaration of his/her knowledge of the health and fitness of the livestock in a form acceptable to the Council;
(iv) supplied written confirmation of permission to travel into the next municipality if relevant;
(v) if bringing cattle into Victoria, first obtained permission in writing from an inspector of livestock under the Livestock Disease Control Act 1994;
(vi) in respect of any declared Vic Roads’ roads, the permission of Vic Roads has been obtained;
(vii) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.

(e) Permit Conditions: In determining conditions applying to any permit for the droving of livestock, an Authorised or Delegated Officer may impose such conditions as he/she reasonably believes are appropriate, including but not limited to Guideline sub-clause 43. (2) (f), (g) and the following:

(i) livestock are not to be camped in any area which is a declared or designated area of high or medium conservation status;
(ii) appropriate reflective signs or flashing lights be erected in front of, and at the rear of any livestock camped overnight on a road;

(iii) the number of livestock that may be driven in the municipal district at any one time must not exceed the number specified on the permit;

(iv) the livestock must travel no less than the distances specified by an Authorised or Delegated Officer but this may include a rest day in appropriate circumstances;

(v) the permit holder has a current public liability insurance policy covering risks relevant to the droving and for an amount sufficient to meet any liability of the Council;

(vi) the livestock are healthy and free of disease;

(vii) signs conforming with the Road Safety Rules 2009 are in place;

(viii) livestock are only to be driven on any road during daylight hours;

(ix) that Council reserves the right to notify any other government department or government agency it believes relevant of the details of the application and/or the permit, if issued.

(f) The Permitted Route: The route to be travelled must be determined by an Authorised or Delegated Officer and clearly stated on the Permit having regard to the following considerations:

(i) the route requested by the applicant;

(ii) the practicality of that route or alternative routes;

(iii) the respective volume of traffic regularly using roads in the vicinity;

(iv) the proposed commencing and finishing locations;

(v) the sensitivity or status of vegetation on that route;

(vi) the duration and/or frequency of livestock droving proposed;

(vii) the number of livestock involved;

(viii) any permits already granted for droving or grazing or any movement on or adjacent to the proposed area;

(ix) the condition of the road and the prevailing weather conditions at the time of or during the proposed livestock droving;

(x) the availability of alternative routes;

(xi) the distance to be covered each day;

(xii) the health and condition of the livestock;
(xiii) the nature of any weeds or growth along any proposed route and the potential for livestock to spread noxious or environmental weeds;

(xiv) the potential for safely accommodating any livestock overnight;

(xv) the capacity to adequately warn other road users of the presence of livestock on the road;

(xvi) procedures for varying any route in situations of hardship;

(xvii) the availability of water and feed;

(xviii) the outcome of any consultation with relevant Government Departments;

(xix) the views of the Vic Roads concerning any droving on declared Vic Roads’ roads;

(xx) any other matter reasonably believed by an Authorised or Delegated Officer to be relevant to the application.

(g) Permitted Droving Conditions: A person who is in charge of livestock which are being driven on a road must ensure that:

(i) the livestock are supervised and under effective control at all times by a person who is competent in the management of such livestock;

(ii) livestock camped overnight are enclosed by a substantial and secure barrier so as to prevent escape or danger to other road users;

(iii) proper disposal takes place of any carcass of any livestock under that person’s charge, which die on the road;

(iv) the livestock are only driven on any road during daylight hours;

(v) the livestock are not driven on roads which the Council or an authorised Officer has notified the person must not be used for the droving of livestock;

(vi) an inspector of livestock administering the Livestock Disease Control Act 1994 is notified if the person in charge of the livestock becomes aware or suspects that any of the livestock have a disease or has died of a disease listed as a notifiable disease under that Act;

(vii) he or she complies with the provisions of the Livestock Disease Control Act 1994 and the Prevention of Cruelty to Animals Act 1986; and

(viii) any other matter reasonably believed by an Authorised or Delegated Officer to be relevant to the circumstances.

46. PLACING BULK RUBBISH CONTAINERS

These Guidelines as determined by Council from time to time are incorporated in this local law for the issuing a permit for bulk rubbish containers.
In determining whether to grant a Permit for the placement of a Bulk Rubbish Container on a Road, an Authorised or Delegated Officer must have regard to the following guidelines:

(1) whether the placement will obstruct the passage of Vehicles and pedestrians, obscure the view of motorists or present a physical hazard;

(2) whether the placement will contravene any traffic control signs;

(3) protection of any Council assets;

(4) any requirements under the provisions of the Road Management Act 2004 and any requirements or provisions in the current Code of Practice for Placement of Waste Bins on Roadsides (Vic Roads Publication No. 00623) 2001 as amended from time to time;

(5) the current (and historical) status of the applicants trading account with Council;

(6) whether a copy of a valid insurance certificate of currency has been provided to Council;

(7) whether an indemnity/guarantee has been provided to the Council; and

(8) any other matter Authorised or Delegated Officer reasonably believes is relevant to the application.

See also the following clauses in this local law:

- Part 7 Business and Builders: Cl.60. Trade Waste and Waste Hoppers.

47. MOTOR BIKES AND MOTORISED RECREATIONAL VEHICLES

These Guidelines as determined by Council from time to time are incorporated in this local law for issuing a permit for the use of a Motor Bike or Motorised Recreational Vehicle.

In determining whether to issue a permit for the use of for the use of a Motor Bike or Motorised Recreational Vehicle under this local law, an Authorised or Delegated Officer must consider the following guidelines.

(1) the location and size of the Council Land where the vehicle is to be used;

(2) the land-use of adjoining allotments within a 500 metre radius;

(3) the suitability of the land for use by Motor Bikes or Motorised Recreational Vehicles (as the case may be);

(4) the number of vehicles for which the Permit is required;

(5) the days, times and hours such vehicles are to be used;
(6) the likely effect on the amenity of the area including noise impacts;
(7) whether neighbouring properties should be asked to make comment;
(8) the likely damage which may be caused to the Council Land or any Council Land (as the case may be);
(9) the nature and extent of any public risk to be created by the activity;
(10) whether public liability insurance exists or ought to be required; and
(11) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.

50. HEAVY VEHICLES: PERMITS FOR USE ON RESTRICTED USE ROADS

These Guidelines as determined by Council from time to time for issuing a permit for use of heavy vehicles on restricted roads are incorporated in this local law.

In determining whether to grant a Permit to use a Road contrary to any sign erected on it, the Council or an Authorised or Delegated Officer must have regard to the following guidelines:

(1) the amount of the damage likely to be caused to the Road by the Vehicle requiring the permit;
(2) the type and weight of vehicle;
(3) the goods to be transported and the weight of those goods;
(4) alternative Roads which are available;
(5) the necessity to impose speed limits; and
(6) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the circumstances of the application.

51. STREET FESTIVALS: PERMIT

These Guidelines as determined by Council from time to time are incorporated in this local law for determining whether to grant a permit for street festivals.

In determining whether to grant a Permit for a Street Festival or Procession, the Council or an Authorised or Delegated Officer must have regard to the following guidelines:

(1) whether an application to conduct a Street Festival or Procession on any Road has been made at least 21 days before the event is to take place.
(2) whether the Street Festival or Procession is planned for a declared Arterial Road or any other main thoroughfare under the management and control of Vic Roads, requiring prior permission by the Chief Commissioner of Victorian Police and Vic Roads, and whether their requirements have been met including an appropriate traffic detour signing scheme;

(2) whether the Road can be closed to vehicular traffic, or partly closed with safe and effective separation of vehicular traffic and Street Festival or Procession patrons and equipment for the duration of the event;

(3) whether the organiser of a street festival for which a permit may be granted is aware that it a compulsory condition of a permit is that the organiser must not provide or allow anyone to provide or use any form of glass container at the street festival, nor allow any person at any such street festival, to bring to, provide or use any form of glass container;

(4) whether all owners or occupiers of all properties with any immediate vehicular access via the section of Road to be closed have been advised by letter and given seven (7) days to comment or object or other arrangements to the Council’s satisfaction have been put in place to alert relevant owners and occupiers of properties;

(5) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the Road at locations and times specified by the Council or the Authorised or Delegated Officer;

(6) whether the Footpath on at least one side of the Road can be kept clear of obstructions; and

(7) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.
BUSINESS AND BUILDERS

52. ROADSIDE TRADING OR PERFORMING

These Guidelines as determined by Council from time to time are incorporated in this local law for determining whether to grant a permit for Roadside Trading or Performing (busking).

In determining whether to grant a Permit to allow trading or performing from a Road or to a person on a Road, an Authorised or Delegated Officer must have regard to:

(1) whether the safety of Road users or the passage of Vehicles will be affected by the placement or performance;

(2) and:
   (a) whether Permits required by Public Health and Wellbeing Act 2008, Food Act 1984 or any other legislation have been obtained;
   (b) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;
   (c) whether the activity will be detrimental to the amenity of the area;
   (d) the nature and duration of any performance and whether it should be time limited;
   (e) whether an alternative performance location can be identified to reduce any annoyance or disruption to property owners or occupiers or other persons lawfully using the area;
   (f) whether audience attracted by a performance may cause traffic, pedestrian or trader disruption;
   (g) whether other performers will be unfairly impacted or excluded by the location or duration of any permit;
   (h) whether appropriate arrangements can be made for:
      - waste water disposal;
      - litter and garbage;
      - lighting; and
      - advertising signs;

(3) whether the consent of Vic Roads has been obtained where the road is an arterial or Vic Roads controlled road;

(4) whether any indemnity/guarantee has been provided to the Council;

(5) whether the activity will be detrimental to local businesses in the vicinity; and

(6) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.
55. DISPLAYING GOODS FOR SALE

These Guidelines as determined by Council from time to time for determining whether to grant a Footpath Trading Permit for the Display of Goods and under what conditions, are incorporated in this Local Law.

An Authorised or Delegated Officer in considering whether to issue a Footpath Trading Permit for the Display of Goods and conditions that apply, must follow these guidelines:

(1) General Principles

(a) Safe pedestrian access is the primary purposes of all footpaths.

(b) Other activities such as trading, advertising and street events are secondary.

(c) Footpath activity must make a positive contribution to the character and amenity of the area and surrounding residential areas.

(d) Council must fulfil its responsibility for equity of access for all as defined in the Commonwealth Disability Discrimination Act (1992) (The DDA). Footpaths fall within the DDA definition of premises and are intended to enable access to required community facilities.

(e) Accessways: The key to an effective, accessible pedestrian system throughout the built environment is the provision and maintenance of accessways. The accessway should generally extend from the building or property line to provide a consistent footpath environment inclusive of the needs of all including older people and people with disabilities.

As a general principle with accessways at the property line, all street furniture, infrastructure, signs, trader’s activities and displays should be located towards the kerb side, not along the building or property line.

(f) 3 Footpath ‘Zones’: To provide a clear Accessway for pedestrians, the footpath is divided into three zones.

(i) Accessway

An accessway is "an uninterrupted path of travel to or within a building, providing access to all required faculties. The Accessway extends from the building line or shopfront of premises for a minimum of 1500-1800 mm. No items may extend into this zone at any time including items overhead below a height of 2200 mm.

(ii) Trading Activity Zone:

The Trading Activity Zone is the only area of the footpath where signs, goods, café furniture and ancillary items may be placed and where other permitted street activities may take place. Where premises are adjacent to an intersection the Trading Activity Zone must not extend past the building line.
(iii) Kerbside Zone

The Kerbside Zone is a buffer from the kerb of a minimum of 400 mm to allow for access to and from parked vehicles. Where there is a disabled parking bay the setback from the kerb will be at least 1500 mm. Where there is a loading zone the setback from the kerb will be at least 600 mm.

No items may be placed in either the Accessway Zone (Accessway) or the Kerbside Zone.

(g) In addition to any matters set out in these guidelines, in considering whether to grant a permit for displaying goods for sale on the Council or an Authorised or Delegated Officer will consider:

(i) How the proposal meets the general principles.
(ii) The effect on pedestrian flow and safety
(iii) The impact on the appearance of the street and its surroundings.
(iv) Any impact on trading generally within the area.
(v) The effect on vehicular flows and traffic safety.
(vi) Whether the proposal will be detrimental to the amenity of the area, including residential amenity.

(2) Displaying Goods for Sale on Footpaths

(a) In order to provide a consistent accessway zone, goods and displays may only be displayed in the Trading Activity Zone of the footpath.

(b) Goods may only be in place during normal or authorised trading hours, and must not be placed on a footpath prior to 7.00AM each trading day and remain on the footpath after 11.00PM on each trading day.

(c) Goods (except furniture) must be displayed on stable stands approved by Council that are able to withstand adverse weather conditions. Stands must be secured in a manner, which ensures that adverse weather conditions will not create a risk for pedestrians, property and passing traffic. Stands and goods must not cause any damage to the footpath.

(d) Goods or displays will not be permitted where access to a loading zone or disabled parking bay will be impeded. (1500 mm from the kerb)

(e) Goods or displays will not be permitted where they will cause difficulty to pedestrians and people exiting or accessing parked vehicles or the footpath.

(f) Goods displays will not be allowed to exceed a height of 1500 mm.

(g) Stands and displays should contrast with their background to assist people with vision impairment.

(h) Goods displays will not be permitted to overhang either the kerb zone or accessway.
(i) Full-length shop awnings to protect goods located in the Trading Activity Zone shall be nominated on any application and shall be securely fixed by an appropriate means to the ground.

(j) The permit applicant must provide to Council satisfactory evidence of current public liability insurance and be for an amount of not less than $10,000,000.00 for any single occurrence. Any permit issued will be on the basis that the policy will stay current for the life period of the permit.

56. USE OF COUNCIL LAND FOR COMMERCIAL OUTDOOR EATING FACILITIES

These Guidelines for determining whether to grant a Footpath Trading Permit and under what conditions, as determined by Council from time to time are incorporated in this Local Law.

An Authorised or Delegated Officer in considering whether to issue a Footpath Trading Permit and the conditions that would apply, must follow these guidelines:

(1) General Principles

(a) Safe pedestrian access is the primary purposes of all footpaths.

(b) Other activities such as trading, advertising and street events are secondary.

(c) Footpath activity must make a positive contribution to the character and amenity of the area and surrounding residential areas.

(d) Council must fulfil its responsibility for equity of access for all as defined in the Commonwealth Disability Discrimination Act (1992) (The DDA). Footpaths fall within the DDA definition of premises and are intended to enable access to required community facilities.

(e) Accessways: The key to an effective, accessible pedestrian system throughout the built environment is the provision and maintenance of accessways. The accessway should generally extend from the building or property line to provide a consistent footpath environment inclusive of the needs of all including older people and people with disabilities.

As a general principle with accessways at the property line, all street furniture, infrastructure, signs, trader’s activities and displays should be located towards the kerb side, not along the building or property line.

(f) 3 Footpath ‘Zones’: To provide a clear Accessway for pedestrians, the footpath is divided into three zones.

(ii) Accessway

An accessway is "an uninterrupted path of travel to or within a building, providing access to all required facilities. The Accessway extends from the building line or shopfront of premises for a minimum of 1500-1800 mm. No items may extend into this zone at any time including items overhead below a height of 2200 mm."
(ii) Trading Activity Zone:
The Trading Activity Zone is the only area of the footpath where signs, goods, café furniture and ancillary items may be placed and where other permitted street activities may take place. Where premises are adjacent to an intersection the Trading Activity Zone must not extend past the building line.

(iii) Kerbside Zone
The Kerbside Zone is a buffer from the kerb of a minimum of $400$ mm to allow for access to and from parked vehicles. Where there is a disabled parking bay the setback from the kerb will be at least $1500$ mm. Where there is a loading zone the setback from the kerb will be at least $600$ mm.

No items may be placed in either the Accessway Zone (Accessway) or the Kerbside Zone.

(g) In addition to any matters set out in these guidelines, in considering whether to grant a permit for an outdoor eating facility the Council or an Authorised or Delegated Officer will consider:

(i) How the proposal meets the general principles.

(ii) The effect on pedestrian flow and safety

(iii) The impact on the appearance of the street and its surroundings.

(iv) Any impact on trading generally within the area.

(v) The effect on vehicular flows and traffic safety.

(vi) Whether the proposal will be detrimental to the amenity of the area, including residential amenity.

(2) Outdoor Eating Facilities on Footpaths

(a) Accessways & patrons: the permit holder is responsible for the conduct of patrons at tables and chairs in the outdoor seating area and must;

(i) ensure that patrons do not move tables and chairs from their positions and obstruct the accessway;

(ii) ensure that patrons do not allow pets, prams or any other personal items to obstruct the accessway and,

(iii) serving of food and beverages to patrons standing on the footpath within the accessway is not permitted.

(b) Other setbacks:

(i) A set back of $500$ mm is required from each side boundary of a premise to ensure access points from the footpath to the road are available between each premise.
(ii) Where a premise exceeds 12 metres of frontage then a break of 1.0 metres shall be provided the satisfaction of Council at an appropriate point to allow access to the accessway zone. In considering the location of a break in the trading activity the Council shall have regard to the car parking spaces provided on the road and the location of any other infrastructure within the road reserve.

(iii) Any footpath trading activity may only be outside the premises to which it relate and must be contained within the property line, with the required setback from the property line of 500 mm on each side to allow for access.

(iv) Where a footpath trading activity is proposed in close proximity to a mid-block pedestrian crossing the location of the footpath trading activity shall provide separation from any such crossing and ensure sight lines for pedestrians are protected.

(v) Where a trading activity is proposed adjacent to car parking spaces designated for people with disabilities a kerbside zone of up to 1500mm will be required.

(vi) Services such as gas power water and telecommunications should not be covered or obstructed by any permanent structures.

(vii) Unless exceptional circumstances apply, trading activity (including any outdoor eating facility) shall be placed so it is not within 1000mm of any Council seat, rubbish bin or other item of street furniture.

(c) Use & Maintenance of Outdoor Eating Areas:

(i) A trader must supply each table outside with a wind-proof ashtray at all times. Traders are responsible for cigarette ash, butts and any other litter generated by patrons of their footpath dining areas.

(ii) Serving staff at outdoor eating facilities should facilitate free access by pedestrians and give all pedestrians priority right of way.

(iii) Each operator is responsible for maintaining the outdoor eating area. A permit may be cancelled or suspended if instances of littering, untidiness or failure to maintain the accessway are noted.

(iv) Items which are placed on the footpath must be stable and of a design approved by Council and not able to damage the footpath.

(v) Items placed on the footpath must be maintained by the licensee in an acceptable manner to the satisfaction of the Council.

(vi) Traders will be responsible for reimbursing Council for any reinstatement works as a result of damage to footpaths or street fixtures and furniture.
(d) Other requirements

(i) Alcohol Service: Any premises where Council’s footpath is to be used for alcohol service or consumption must have its liquor licence endorsed with the footpath as part of the “licensed area” on the liquor licence for that premise.

(ii) Public Liability Insurance: The permit holder must provide to Council satisfactory evidence of current public liability insurance and be for an amount of not less than $10,000,000.00 for any single occurrence. Any permit issued will be on the basis that the policy will stay current for the life period of the permit.

(iii) Amplification Equipment Prohibited: No sound amplification equipment, or like equipment may be erected or utilised in the outdoor seating area to protect the amenity of the area.

(iv) Live Entertainment: No live entertainment is permitted without the written permission of Council.

(v) Outdoor Heaters: All outdoor heaters in the footpath trading zone must be licensed as part of a permit and covered by traders’ public liability insurance. Conditions recommended by the Australian Office of Gas Safety will apply to any approval to place heaters on the footpath.

(vi) Umbrellas: Umbrellas may only be placed in the Trading Activity Zone. Where umbrellas are allowed they must be 2200 mm high at the lowest point other than the centre pole and must not protrude over the kerb. When it is raining water from large umbrellas should be discharged outside the accessway.

Where Council approved, umbrellas must be secured in a manner approved by Council. Applications for approval for other than a lock-in device should be clearly nominated on the application.

(vii) Screens: Screens or screening devices may be placed where there are tables and chairs for safety reasons.

Where an application proposes to suspend any fixture or fitting from the underside of a verandah or a building (such as lights or heaters) the fixture or fitting shall be fixed in accordance with the appropriate engineering standards and shall have a minimum clearance of 2.4 metres above the Trading Activity Zone. Outside the business hours of the premises with which they are associated, any fixture or fitting that is retractable must be retracted.

(viii) Advertising signage: Advertising signage on temporary windbreaks or umbrellas must comply with the Planning Scheme to identify the operator of the business.
No advertising shall be permissible on permanent screens other than the name of the premises.

(ix) Signs on Footpaths: see cl.58 Advertising Signs – Erecting or Placing.

(x) Compensation for loss of trade: Where any service authority are required to carry out works within the road reserve which requires the removal and/or alteration to the footpath trading arrangements, no compensation will be payable for any loss of trade experienced during and after the works.

(xi) Inspection: Council will make regular inspection of areas that have been authorised for footpath trading.

(xii) An Authorised or Delegated officer will give direction to any permit holder in respect to compliance with the permit or activity authorised. Failure to respond to a lawful direction will result in enforcement action being taken.

(xiii) Revocation/suspension/modification: The Council may suspend, revoke, amend, relocate or otherwise modify any permit it issues, subject only to the appeals process outlined in this local law. Council must give any permit holder 14 days’ notice of its intention to suspend or revoke amend, relocate or otherwise modify any permit. If such action is taken by Council the permit holder or any other person shall not be entitled to any payment compensation or damages of any kind.

(xiv) Application Decision Guidelines: Council reserves the right to reject any application made for footpath trading.

(xv) Fees: Council sets its fees and charges each year as part of the Council budget process.

58. ADVERTISING SIGNS: ERECTING OR PLACING – GUIDELINES

These Guidelines as determined by Council from time to time are incorporated in this local law for Advertising Signs: Erecting or Placing.

In determining whether to grant a Permit for an Advertising Sign, the Authorised or Delegated Officer must have regard to the following guidelines:

(1) The erection or placing of advertising signs on the following parts of roads is not permitted:

   (a) Any Council land that is not directly adjacent to the business it is promoting;
   (b) Adjacent to any property line on a footpath;
   (c) On any vehicle parked or left standing on a road; or
(d) In any other location which, in the reasonable opinion of an Authorised or Delegated Officer, is likely to obstruct motorists’ lines of sight or cause danger to any road user, pedestrian or visually disabled person.

(2) In determining whether to grant a Permit to allow advertising signs to be placed on roads, the Authorised or Delegated Officer must have regard to:

(a) the width and height of the sign not exceeding 600 mm and 1200 mm respectively;
(b) any other signs for the applicant’s premises;
(c) whether the construction or erection of the sign will create a hazard to pedestrians;
(d) whether an indemnity/guarantee or public liability insurance may be required;
(e) whether the sign is to advertise a non-commercial local educational, cultural, political, religious, social or recreational event on a Municipal Reserve in which case it is may be subject to a Use of Municipal Reserve Permit and the application should be referred accordingly.
(f) any other matter the Authorised or Delegated Officer reasonably believes relevant to the application.

(3) Advertising Signs on Footpaths

(a) **General Principles**

(i) Safe pedestrian access is the primary purposes of all footpaths.

(ii) Other activities such as trading, advertising and street events are secondary.

(iii) Footpath activity must make a positive contribution to the character and amenity of the area and surrounding residential areas.

(iv) Council must fulfil its responsibility for equity of access for all as defined in the Commonwealth Disability Discrimination Act (1992) (The DDA). Footpaths fall within the DDA definition of premises and are intended to enable access to required community facilities.

(v) Accessways: The key to an effective, accessible pedestrian system throughout the built environment is the provision and maintenance of accessways. The accessway should generally extend from the building or property line to provide a consistent footpath environment inclusive of the needs of all including older people and people with disabilities.

(vi) As a general principle with accessways at the property line, all street furniture, infrastructure, signs, trader’s activities and displays should be located towards the kerb side, not along the building or property line.
(vii) 3 Footpath ‘Zones’: To provide a clear Accessway for pedestrians, the footpath is divided into three zones.

(i)  **Accessway**

An accessway is "an uninterrupted path of travel to or within a building, providing access to all required facilties. The Accessway extends from the building line or shopfront of premises for a minimum of **1500-1800 mm.** No items may extend into this zone at any time including items overhead below a height of 2200 mm.

(ii) **Trading Activity Zone:**

The Trading Activity Zone is the only area of the footpath where signs, goods, café furniture and ancillary items may be placed and where other permitted street activities may take place. Where premises are adjacent to an intersection the Trading Activity Zone must not extend past the building line.

(iii)  **Kerbside Zone**

The Kerbside Zone is a buffer from the kerb of a minimum of **400 mm** to allow for access to and from parked vehicles. Where there is a disabled parking bay the setback from the kerb will be at least 1500 mm. Where there is a loading zone the setback from the kerb will be at least 600 mm.

No items may be placed in either the Accessway Zone (Accessway) or the Kerbside Zone.

(b)  **Footpath signs requirements**

(i)  All permitted signs are to be secured in place by a means that is not reliant on, or physically tied to any Council infrastructure; includes seats, poles, trees, etc. The means by which these signs are to be secured must not extend beyond the circumference of the permitted sign and must be of a type approved by Council. Any securing device is to be removed with the sign in accordance with permitted display times.

(ii)  Inflatable signs, portable electric signs, illuminated, revolving, spinning or flashing signs, flags and banners are prohibited.

(iii)  Signs must only be placed in the Trading Activity Zone.

(iv)  Signs must only be in place during normal trading hours.

(v)  Signs on footpath must be secured by Council approved method or the Authorised Officers discretion.
(vi) An advertising sign must not exceed 600 mm in width or 1200 mm in height. A 12-month moratorium will be provided for current permit signs, which exceed these dimensions.

(vii) The maximum number of signs permitted is one per 10 metre of shop front, with a maximum of 1 per premises.

(viii) The permit holder must provide to Council satisfactory evidence of current public liability insurance and be for an amount of not less than $10,000,000.00 for any single occurrence. Any permit issued will be on the basis that the policy will stay current for the life period of the permit.

59. COLLECTIONS & HOUSE TO HOUSE TRADING

These Guidelines as determined by Council from time to time are incorporated in this local law for determining whether to grant a permit for a Collection or House to House Trading.

In determining whether to grant a Permit for Collections or House to House Trading, an Authorised or Delegated Officer must have regard to the following:

(1) For any permit for any form of house to house commercial trading, or non-exempt distribution of books, handbills or information, the matter may only be determined directly by the CEO or by resolution of Council;

(2) For the sale of any goods or services from Council Land or on a road, refer to the permit required under either cl.51 (Roadside Trading, Busking or Performing) or cl.54 (Displaying Goods for Sale). For the sale of goods or services from private land the matter is subject to a Municipal Planning Scheme Permit.

(3) For a permit for collections, a limit should be imposed on the total number of collection permits to be granted (averaging per annum no more than one per month per location or postcode area, whether door-to-door, highway, or other) and a preference to be given to volunteer collectors for charitable organisations benefiting the Gannawarra community; and

(4) whether the organisation has already received a permit in any particular year for the location or area sought;

(5) the times and days it is proposed to collect;

(6) the land-use of the relevant land on which the collection would take place and that of adjoining allotments;

(7) the matter or thing to be collected and/or distributed;

(8) the age of the participants and the capacity for them to be supervised;

(9) whether an indemnity/guarantee has been provided to the Council;
(10) if the person or organisation is collecting on a public carriageway from passing vehicles, whether the person or organisation has current Public Liability Insurance for at least $10 million and has produced a Certificate of Currency;

(11) the Roads or areas in which the collections would take place;

(12) the impact on Traffic and safety of pedestrians;

(13) any view of the Victoria Police or Vic Roads (where relevant) concerning the proposed location or conduct of any collection, especially regarding a Highway Collection;

(14) whether the following mandatory requirements for Highway Collections can be satisfied:

(a) The nominated intersection must be controlled by traffic signals.

(b) Highway collections should be limited to weekends or public holidays.

(c) No highway collection shall take place between sunset and sunrise.

(d) No Highway Collections shall take place at an intersection located in a speed zone greater than 70 kilometres per hour.

(e) No highway collection shall commence or continue during inclement weather or abnormal atmospheric conditions.

(f) Collectors shall only enter upon the carriageway:-

- when a red traffic control signal is displayed facing vehicles from which they wish to solicit for contributions; and

- shall immediately leave the carriageway and remain on the reservation or footpath when that traffic control signal changes from red; and

(15) any other matter the Authorised or Delegated Officer reasonably believes is relevant to the application.

60. TRADE WASTE BINS AND WASTE HOPPERS

Guidelines giving Council’s compliance requirements in relation to Trade Waste Hoppers as determined from time to time are incorporated in this local law.

In determining whether any breach has occurred in Council’s requirements in relation to Trade Waste and Waste Hoppers (including all Trade Recycling Bins) under this local law, an Authorised or Delegated Officer must follow these guidelines.

(1) Construction of Bins

Waste hoppers or bins used for the collection and storage of trade waste must:
(a) be constructed of approved impervious material to the satisfaction of the Municipal Environmental Health officer to prevent leakage, absorption or accumulation of any refuse or rubbish that may be deposited in it;

(b) be water-tight, fly and vermin proof;

(c) if its capacity exceeds 500 litres, contain a removable drainage plug for the purpose of cleaning; and

(d) be fitted with fly and vermin proof lid with overlapping flanges which must be kept continuously closed; except when being used for the immediate deposit of waste material.

(2) Emptying of Trade Waste Bins

Waste hoppers or bins used for the collection and storage of trade waste must be emptied at least weekly or more regularly if the contents become offensive.

(3) Cleanliness and Storage of Bins

The occupier of land must ensure that, in relation to bin used for the collection and storage of trade waste:

(a) the bin is stored and maintained in a clean, sanitary and inoffensive condition and must clean and at all times keep clean any footway, pavement or ground adjoining the storage area, to the satisfaction of the Municipal Environmental Health Officer;

(b) the surface upon which the bin is stored is impervious, and graded and drained to the sewer or an approved outlet with such silt traps or other treatment devices as required by the Municipal Environmental Health Officer;

(c) the storage site is supplied with a tap connection and hose of a size approved by the Municipal Environmental Health Officer to the satisfaction of the Municipal Environmental Health Officer;

(d) the bin is screened in such a way and with such material as approved by the Municipal Environmental Health Officer;

(e) the bin is adequately fenced or constructed in such a way so as to deny access to the public; and

(f) the bin is stored and maintained in a clean and sanitary condition on the land to which it relates.

(4) Notice of Materials to be Deposited

Every waste hopper or recycling bin used for the collection of waste or recyclable material must display a notice indicating the type of waste or material which is permitted and stating that it is an offence to deposit any material contrary to the notice.
61. OCCUPYING OR OPENING A ROAD / DRAINAGE TAPPING

Guidelines for whether to grant a permit for Occupying or Opening a Road / Drainage Tapping as determined by Council from time to time are incorporated in this local law.

(1) A Permit is required for, but is not limited to, the following activities:
   (a) fencing off part of a Road;
   (b) blocking any Road with a Heavy Vehicle or Long Vehicle for the purposes of loading or unloading for any period exceeding 5 minutes;
   (c) erecting a hoarding, scaffolding or overhead protective awning;
   (d) using a mobile crane or travel tower for any building work;
   (e) tapping into any drain;
   (f) making a hole or excavation;
   (g) reinstating a hole or excavation;
   (h) ploughing or cultivating for firebreaks or cropping on any part of a Road; and
   (i) any other activity involving occupying or opening a Road or tapping into a Council owned drain.

(2) The application for an Occupying or Opening a Road / Drainage Tapping must include a written request, together with where appropriate plans approved by a building surveyor, or if occupying a road, an appropriate traffic management plan.

(3) The applicant must pay the permit fee in advance of the issuing of the permit.

(4) The Authorised or Delegated Officer must issue detailed permit conditions with regard to excavations, temporary seals, road opening and road opening fee procedures, safety signage for traffic and pedestrians, site cleanliness, final permanent repairs, manner of drainage tapping, and restoration of nature strips, road pavement, footpaths, kerb and channels, drains, and road markings.

(5) Where the permit is for occupying a road, the date, times and extent of traffic disruption and the overriding safety of all other road users including pedestrians must be considered and specific conditions incorporated in the permit;

(6) Permit conditions should include the requirement that any extension of time required under the permit for completion of any road opening or occupying must be notified to Council in advance of the expiration of the Permit, and an extension of time requested, which if granted may include additional conditions on the activity.

(7) A drainage tapping to a legal point of discharge is for the purpose of rain water only, any other discharge intended must be revealed on the application and is subject to approval by the Authorised or Delegated Officer. Additional information regarding the source, quality, chemical and biological content, quantity and frequency of any other discharge should be given.
(8) In considering whether to issue an occupying or opening a road / drainage tapping permit and/or the appropriate conditions applicable to that permit, the Authorised or Delegated Officer may take into account any other matter he or she reasonably believes is relevant to the application.

*Occupying or Opening a Road / Drainage Tapping Permit Conditions are incorporated in Schedule 3.*

### 65. BUILDING WORKS ON PRIVATE LAND - GUIDELINES

These Guidelines as determined by Council from time to time for issuing an Asset Protection Permit under cl.64 Building Works on Private land, are incorporated in this local law. For convenience the Guidelines are divided by sub-clause.

#### 64.5 Guidelines for Building Works on Private Land Bond or Guarantee

When considering whether or not to issue a notice for a building works bond or guarantee, an Authorised or Delegated officer will take into account the following guidelines:

- **(1)** the nature of the proposed Building Works;
- **(2)** the duration of the Building Works;
- **(3)** the condition of the Roads, land and assets;
- **(4)** an appropriate sum for the bond given the potential risk;
- **(5)** any other relevant matter the officer reasonably believes is relevant; and
- **(6)** a notice given under sub-clause 64 (5) must specify -
  - **(a)** the guarantee or bond which is satisfactory to the Authorised Officer;
  - **(b)** the amount of the guarantee or bond; and
  - **(c)** the period within which the guarantee or bond must be delivered to the Council.
  - **(d)** where a guarantee or bond is required and a person commences or permits any Building Works to commence without complying with such notice, that person is guilty of an offence under this local law.
  - **(e)** when the Building Works have been completed the owner or occupier of the Private land or their authorised building agent, must advise the Council in writing and the Council may arrange for an Authorised or Delegated Officer to inspect the Roads, Council Land and other Council assets in the vicinity of the Private land.

When considering the application of (or a refund of) a building works bond or guarantee, an Authorised or Delegated officer will take into account the following guidelines:
(7) The findings of any inspection made by an Authorised or Delegated Officer of the Roads, Council Land and other Council assets in the vicinity of the Private land after the owner or occupier of the Private land advised the Council in writing that the Building Works were completed.

(8) If in the opinion of the Authorised or Delegated Officer the Building Works or activities associated with the Building Works have caused -

(a) damage to Roads, Council Land or other Council assets; or
(b) deposited residue, dirt or mud on Roads, Council Land or other Council assets the Authorised or Delegated Officer may serve a Notice to Comply on a person requiring a person to repair the damage or remove the material.

(9) If the person on whom the Notice to Comply is served fails to repair the damage or remove the material as required by the Notice to Comply, an Authorised or Delegated Officer may apply the guarantee or bond towards the cost of repairing the damage or removing the material.

(10) If -

(a) in the opinion of the Authorised or Delegated Officer, there is no damage to repair or material to remove; or
(b) an Authorised or Delegated Officer does not carry out an inspection referred to in sub-clause (6)

the guarantee or bond must be returned.

64.6 These Guidelines for Proper Fencing, Protective Tree Barriers, Site Identification And Traffic Management Plans, as determined by Council from time to time are incorporated in this local law

When considering whether to issue a permit under clause 64 (6) or whether an offence has been committed under the clause 64 (6), an Authorised or Delegated officer will take into account the following guidelines:

(1) Proper Fencing

For the purposes of sub-clause (6) the Private land is properly fenced if it is fenced in a manner which:

(a) restricts access from Council Land by the general public to the Private land at which the Building Works are being undertaken;
(b) retains any refuse and debris from the Building Works being undertaken at the Private land within the boundaries of the Private land; and
(c) is constructed and installed in accordance with any written direction of the Council or an Authorised or Delegated Officer.
(2) Protective Tree Barriers

(a) A tree which requires a protective barrier under this sub-clause (6) will be referred to as a “protected tree” for the purposes of this clause.

(b) An Authorised or Delegated Officer shall regard all trees located on Council land within 4 metres of a building site as protected trees requiring protective tree barriers, unless reasonable grounds for exclusion can be shown.

(c) Other additional trees beyond 4 metres from the building site may also be determined as requiring protective tree barriers if in the reasonable opinion of an Authorised or Delegated Officer they are at risk of damage from traffic movements or other circumstances related to the building works.

(d) The Authorised or Delegated Officer will clearly identify to the owner or occupier of the Private land or their authorised building agent, whether in writing or directly in person, which trees are considered protected trees.

(e) All protective barriers must be properly constructed and installed at the cost of a person in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, as it is amended from time to time, and is incorporated by reference in this local law.

(f) For the purposes of this clause, a protective barrier is not required in respect of any particular tree if Council or an Authorised or Delegated Officer has advised in writing that a barrier is not required for that tree.

Australian Standard No. 4970-2009, Protection of Trees on Development Sites, as it occurs from time to time is hereby incorporated by reference in this Local Law.

(3) Site Identification

For the purposes of sub-clause (6) the Private land has been provided with proper site identification if signage is displayed:

(a) the name and address of the person carrying out the Building Works;

(b) the street and lot number relevant to the Private land; and

(c) a 24 hour contract telephone number or numbers of the person carrying out the Building Works;

in a manner approved by an Authorised or Delegated Officer, located close to the site entry and site boundary and clearly legible from within a vehicle on the adjoining roadway.

(4) Vehicle Crossings

Refer to clauses 61-63. No other guidelines at this time.

(5) Traffic Management Plans & Waste Management Plans

None at this time.
SMOKING AND ALCOHOL

70. SMOKING IN DECLARED SMOKE FREE AREAS

The following Guidelines for Declaring a Smoke Free area, as determined by Council from time to time are incorporated into this Local Law. (Note: under the Tobacco Act 1987, the State Government has already prohibited smoking in all workplaces and all enclosed public hospitality areas.)

In preparing a Report to Council for a Resolution declaring an area a Smoke Free or a Non-Smoking Area, Council officers must follow the following procedure:

(1) Implement a community and internal stakeholder consultation plan consistent with Council’s Communication Strategy.

(2) Provide a brief summary of authoritative government medical views and comparative municipality initiatives.

(3) Include enforcement procedures, and estimated costs.

(4) Include a risk analysis.

(5) Ensure the recommendation is not inconsistent with Council’s Smoke Free Zones Policy 121 as amended from time to time.

(6) Prepare a Report for Council summarising all of the above, including a recommendation for an area to be declared ‘smoke free’.

PUBLIC PLACES, PARKS & RESERVES, and COUNCIL BUILDINGS

71. BEHAVIOUR IN A MUNICIPAL PLACE – PROHIBITIONS - GUIDELINES

Guidelines for determining whether behaviour in a Municipal Place is in breach of this local law, as determined by Council from time to time, are incorporated in this local law.

When determining if certain behaviour is an offence in or on a Municipal Place, Council or an Authorised or Delegated Officer must follow these guidelines regarding prohibited behaviour when accessing, using or remaining in a Municipal Place:

(1) A person must not behave in a Municipal Place in a manner which is boisterous or harmful and which interferes with the quiet enjoyment by any person using the Municipal Place or any neighbouring dwellings.

(2) A person must not behave in a Municipal Place in a way that is detrimental to the Municipal Place or other public assets, or in a way that substantially increases the level of personal risk to other users or potential users of that Municipal Place.

(3) A person must not in a Municipal Place, except where such behaviour is a reasonable part of an approved public theatrical performance or artistic exhibition:
GUIDELINES

SCHEDULE

GANNAWARRA LOCAL COUNCIL

PART 75.

11. BEHAVIOUR

(a) use language or behave in a manner which is indecent, offensive or abusive or which annoys, disturbs, interrupts, molests or obstructs any person’s enjoyment of a Municipal Place;

(b) access any pornography on any computer or electronic device;

(c) act in a way which endangers any person;

(d) use any volatile, explosive or flammable matter;

(e) damage, destroy, write on, interfere with, remove or affix anything to any building, improvement or other structure of any kind;

(f) using, other than as part of an approved permitted use, any amplifier, public address or sound broadcasting equipment so as to disturb other persons;

(g) carry firearms, except if that person is a member of the Victoria Police acting in the course of his or her duties or a person falling within the scope of section 130(2) of the Firearms Act 1996, or is otherwise authorised employed or contracted by Council or another relevant government agency for a purpose requiring a firearm;

(h) shoot, snare, molest, injure or in any way harm or interfere with any bird or animal, unless authorised employed or contracted by Council or another relevant government agency for the purpose;

(i) use any life-saving or fire-fighting device unless during an emergency, an authorised practice or rehearsal for an emergency or with the approval of a person in charge or an Authorised Officer; or

(j) act contrary to any sign or conditions applying to that Municipal Place.

75. BEHAVIOUR IN MUNICIPAL RESERVES - PROHIBITIONS - GUIDELINES

Guidelines, relating to whether behaviour in a Reserve constitutes an offence, as determined by Council from time to time, are incorporated in this local law in Schedule 1.

In determining whether behaviour of any person within a Municipal Reserve constitutes a breach of this local law, an Authorised or Delegated Officer must follow these guidelines.

Behaviour considered a breach of this local law in or upon any Municipal Reserve by any person includes:

(1) acting to endanger any person, with or without their knowledge;

(2) interfering with any structure, notice, building or part of it, seat, play equipment, tree or plant;

(3) acting contrary to any notice or sign;

(4) leaving in the Municipal Reserve or in any building on it any litter except in receptacles provided;
(5) maintaining an untidy camp site, whether or not a camping permit exists, including uncontrolled empty glass containers, waste materials, general refuse (whether in bags or not), or any unhygienic or inadequate toilet facilities or remnants.

(6) entering any prohibited areas as designated by the Council or an Authorised or Delegated Officer from time to time;

(7) posting bills or advertisements on any of the fences, gates, walls, seats of other structures;

(8) using, other than as part of an approved permitted use, any amplifier, public address or sound broadcasting equipment so as to disturb other persons;

(9) behaving in a disorderly, unseemly or indecent manner;

(10) spitting or expectorating upon or otherwise fouling any path or structure;

(11) rolling or throwing stones or missiles, other than in approved permitted organised sporting practice or competition;

(12) creating or taking part in any fight or disturbance;

(13) entering or remaining while in an intoxicated condition or while under the influence of any illicit drug;

(14) playing any Unlawful Game or making any wager for money or carrying on any form of gambling;

(15) acting contrary to any lawful direction of any member of Council staff or an Authorised or Delegated Officer, including a direction to leave the Municipal Reserve;

(16) remaining at any time when lawfully directed to leave by any Authorised or Delegated Officer or employee of the Council notwithstanding that a fee or charge for admission may have been paid;

(17) unreasonably interfering with hindering or interrupting any employee of the Council or Authorised or Delegated Officer in carrying out their duties;

76. **USE OF MUNICIPAL RESERVES – PERMITS - GUIDELINES**

*These Guidelines as determined by Council from time to time are incorporated in this local law for determining permitted uses of Municipal Reserves.*

In determining whether to issue a permit for the use of a Municipal Reserve by any person, group or organisation under this local law, an Authorised or Delegated Officer must follow these guidelines.

A Permit is required for the following uses of any Municipal Reserve:
(1) any activity which Council or an Authorised or Delegated Officer reasonably believes will interfere with or prevent the quiet enjoyment of the municipal reserve by any other person lawfully present or will directly impact neighbouring residential amenity.

Uses which require a Permit include, but are not limited to:

(2) camp or pitch, erect or occupy any camp, tent or temporary shelter;

(3) sell any intoxicating Liquor to any person or persons;

(4) hold any event, public or private, whether a circus, fair or carnival, food, wine, or produce festival or market, wedding or any other horticultural, social, educational, cultural, political, religious or commercial occasion, celebration or gathering;

(5) organise, hold or attend any rally, procession, demonstration or other public gathering, except in this case permission, albeit subject to conditions, shall not be normally or unreasonably withheld;

(6) undertake any filming for commercial, cinematic, TV broadcasting or serious dramatic purposes of a nature likely to require exclusive use of sections of any reserve or road for 6 hours or longer, involving film crews, actors, or extras.

(7) use any amplifier, musical instrument, public address or sound broadcasting equipment that may interfere with the use and enjoyment of the Municipal Reserve or any part of it by any other person;

(8) erect, fix or place any advertisement for educational, cultural, political, religious, social, or recreational purposes by any person other than a sporting and recreation club with an occupancy agreement with Council. Council or an Authorised or Delegated Officer acting in the course of his or her duties is exempt from a permit under this sub-clause, provided:

(a) only one sign is erected; and

(b) it is not animated or internally illuminated;

(c) it does not exceed 5 square metres;

(d) it only advertises a local educational, cultural, political, religious, social or recreational event not held for commercial purposes and excludes sporting and recreation clubs with an occupancy agreement with Council; and

(e) it is removed no later than 14 days after the event or is in place no longer than 3 months (or whichever time is sooner).

Any advertising sign which does not conform to the above signage guidelines (a) to (e), whether proposed or erected by Council or any other person will also require a Planning Permit.

(9) conduct or organise or participate in any competitive game or sport, excepting only small social groups not exclusively using or occupying any open space and not unreasonably interfering with the enjoyment of other persons;
(10) engage in any sporting or recreation activity that may interfere with the use and enjoyment of the Municipal Reserve or any part of it by any other person;

(11) sell, expose or offer for sale any article of food or drink or any other article or operate or cause to be operated any amusement for which a charge is made or make a collection of money for any purpose;

(12) ride or drive motor car, motor cycle or other Vehicle except for:

(a) the parking of any motor car, motor cycle, or other Vehicle in any parking area set aside for that purpose by the Council;

(b) any Authorised Officer or employee of the Council acting in the course of his or her duties; and

(c) on any designated roadway;

(13) being a person other than a player, official or competitor at any sports gathering authorised under this Division, enter or remain within or upon the playing arena of a Municipal Reserve during the progress of such sports match or sports gathering;

(14) enter any plots or areas which are set aside for the planting or growing of plants except in undertaking approved works where the person is, or is a volunteer directly supervised by, an employee of the Council, a person contracted to Council for the purpose, a member of the relevant Management Committee, or a member of that Reserve’s approved Friends Group;

(15) drive or operate any boat or watercraft in a manner likely to cause risk or danger to any other person or likely to cause damage to the foreshore environment, including damage caused by repeated wave action;

(16) moor or place or leave any boat or other water craft or use, place or leave any boat or other water craft on any mooring or other rope or chain in such a manner as to cause an obstruction, unreasonable interference or danger to any person using the Municipal Reserve; or

(17) undertake any organised activities where the activity is undertaken or organised in part or whole for commercial gain, including commercial tour operators and commercial providers of recreational activities, but excluding schools and not-for-profit community groups. In the case of tour operators and recreational activity providers (and other similar commercial users) a permit will include:

(a) a tour operators/recreational providers fee structure, including a licence fee and an additional capped usage fee, with usage reporting requirements;

(b) a Council permit with conditions for Council owned-land; and

(c) a State Government Permit for Crown land that is managed by Council as Committee of Management.
In addition to the requirement to obtain a Permit to do any of the things outlined in (1) to (17) above; all requirements contained in any permit, policy or protocol adopted by Council and relevant to that activity must be complied with.

Permit Conditions for Use of a Municipal Reserve are incorporated in Schedule 3.

78. CAMPING ON COUNCIL LAND

Guidelines relating to Camping on Council Land or other public land, as determined by Council from time to time, are incorporated in this local law in Schedule 1.

In determining whether the behaviour of any person with a camping permit, or who is camping in an area made available by Council or other public authority for the purpose, constitutes a breach of either their permit or of the requirements of this local law, an Authorised or Delegated Officer must follow these guidelines.

A person who camps or who occupies a campsite on any Council Land or other public land must:

(1) At all times maintain the campsite in a clean and tidy condition;

(2) Prior to vacating the campsite remove all litter and other refuse from the site to a Council authorised disposal point;

(3) Not camp within 20 metres of any river, stream, spring, creek, dam, bore or watercourse;

(4) Not dispose of any soap, detergent or similar substance less than 50 metres from any river, stream, spring, creek, dam, bore or watercourse;

(5) Provide approved toilet facilities which include a facility for the burying of any faeces at least 100 metres from any river, stream, creek, dam, bore or watercourse; and

(6) Where directed by an Authorised or Delegated Officer, provide and maintain an approved chemical toilet for use of all persons occupying or visiting the campsite.

(7) Dispose of the contents of any chemical toilet only at a Council approved site.

(8) Not light or maintain any campfire or campsite barbeque using solid fuel in the open air unless:

   a) The fire is contained in an approved fireplace or in a trench of at least 30 centimetres deep;

   b) The ground and airspace is clear of all potentially flammable material within a distance of 3 metres from the outer perimeter and uppermost point of the fire;

   c) The fire does not occupy an area exceeding one square metre;

   d) The dimensions of any solid fuel used are the minimum necessary for the purpose; and
(e) Solid fuel does not exceed 1 metre in length.

(9) Be made aware of Council’s camping requirements by either permit conditions issued, or by appropriate signage in the camping area.

(10) In the absence of issued permit conditions or appropriate signage, a warning or notice to comply must be given at least 24 hours prior to the issuing of any infringement notice or prosecution proceedings.

84. BEHAVIOUR IN A MUNICIPAL BUILDING –PROHIBITIONS- GUIDELINES

Guidelines for determining whether behaviour in a Municipal Building is an offence, as determined by Council from time to time, are incorporated in this local law.

A person entering a Municipal Building must not:

(1) be admitted to a Municipal Building if under the age of 8 years unless in the care of an adult;

(2) deposit any litter in a Municipal Building except in receptacles provided for that purpose;

(3) hawk, sell, offer for sale or hire out any goods, articles or services in a Municipal Building without the Council’s or an Authorised or Delegated Officer’s prior written consent; or

(4) being of one sexual gender, enter or use, within a Municipal Building, any dressing room, shower, convenience or any passage leading thereto designated to the opposite gender, unless that person is a child in the care of a responsible adult, or where under the supervision of an approved sporting organisation, facilities and associated passageways are exclusively used by organised sporting teams, contrary to gender signage;

(5) enter or remain in a Municipal Building while intoxicated or under the influence of any illegal drug or bring any illegal drug into a Municipal Building, except only a person attending a function in a Municipal Building organised with the approval of the Council or the Manager in accordance with a liquor licence or Permit or a person delivering Liquor to the building in accordance with an order of the Council;

(6) bring any animal into a Municipal Building or allow any animal under his or her control to remain in a Municipal Building, except only a sight or hearing impaired person accompanied by a guide dog, or a person attending a Council approved function involving the showing of animals;

(7) use in a Municipal Building any Wheeled Non-Motorised Recreational Device or Wheeled Child’s Toy other than a pram or pusher with a child or a wheelchair or other apparatus for the purpose of assisting a disabled person or a trolley or other similar device in the process of assisting the delivery or removal of goods;
(8) bring into a Municipal Building any chemical, substance, liquid or powder which is dangerous to health or has the potential to foul, pollute or soil any part of a Municipal Building or to cause discomfort to any persons in a Municipal Building whether by offensive or noxious smell or otherwise;

(9) enter or remain in any part of a Municipal Building, other than:
   (a) during the hours in which the Municipal Building is open to the public;
   (b) through an entrance provided for the purpose of public entry;
   (c) in an area set aside for public use;

unless that person has the approval of the Manager, an Authorised or Delegated Officer or Chief Executive Officer, or is a member of Council staff in the course of his or her duties or is a person engaged by the Council in the course of performing the function for which he or she was engaged;

(10) obstruct, hinder or interfere with any Manager, attendant, or other member of Council staff or any person employed at the Municipal Building in the performance of his or her duties;

(11) re-enter a Municipal Building within 24 hours after being directed by the Manager, an Authorised or Delegated Officer or an attendant to leave for any breach of this Local Law or any other law.
SCHEDULE 2 – POLICIES AND OTHER INCORPORATED DOCUMENTS

LOCAL LAW NO. 1 ‘Community Amenity’

The following Council Policies and Other Documents are referred to in this Local Law for application by Authorised or Delegated Officers.

The following Council Policies and other documents as amended from time to time are incorporated in this local law in this Schedule 2.

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* All Council policies are located on Council’s website – www.gannawarra.vic.gov.au
Declared Alcohol-Free Areas -1

ALCOHOL FREE AREAS

Under clause 66A (1) Council may by resolution declare any part of the Municipal District Alcohol Free. That declaration may be unconditional, or limited to times of the day, days of the year, defined public holiday periods, special events and/or particular places. It is an offence to consume alcohol in any declared area without a permit during the declared alcohol-free times, dates or events.

The following areas have been declared Alcohol-Free without a permit, unconditionally:

1. From 10 pm until 8 am on all Council land including all Municipal Reserves within the Municipal District of Gannawarra Shire Council.

2. Kerang central township: an area declared where the consumption of alcohol may not be consumed without a permit unconditionally: being the area bounded by the following streets/roads as shown in the map below: Nolan, Scoresby, Fitzroy, Wyndham, Albert, Wellington, Victoria, Little Wellington Land (back to Nolan).

KERANG MAP
Declared Alcohol-Free Areas -1

(3) Quambatook central township: an area declared where the consumption of alcohol may not be consumed without a permit unconditionally: being the area bounded by the following streets/roads as shown in the map below: Little River Lane, Church, Little Guthrie Lane, Monica, Guthrie, Cobden, Cobden, Salisbury, Olive, Kerang Rd (back to Little River Lane) (includes Leary’s Park).

QUAMBATOOK MAP
Declared Alcohol-Free Areas 1

(4) Koondrook central township: an area declared where the consumption of alcohol may not be consumed without a permit unconditionally: being the area bounded by the following streets/roads as shown in the map below: Punt Rd South, Tramway, riverside to Gunbower Pde & Maunder St, Forrest, Arbuthnot (back to Punt Rd Sth).
Declared Alcohol-Free Areas - 1

(5) Murrabit central township: an area declared where the consumption of alcohol may not be consumed without a permit unconditionally: being the area bounded by the following streets/roads as shown in the map below: Danson, Gonn, Forbes, Carr, Church, Browning (back to Danson).

MURRABIT MAP
Declared Alcohol-Free Areas - 1

(6) Cohuna central township: an area declared where the consumption of alcohol may not be consumed without a permit unconditionally: being the area bounded by the following streets/roads as shown in the map below: King George St, Garden Park, Gunbower Creek, Cohuna Island Rd, King George St, Channel, Dunn (back to King George). Includes all Garden Park.

COHUNA MAP
Declared Alcohol-Free Areas - 1

(7) Leitchville central township: an area declared where the consumption of alcohol may not be consumed without a permit unconditionally: being the area bounded by the following streets/roads as shown in the map below: King George St, King Albert Ave, Kitchener, Queen Mary (back to King George). Includes recreational land adjoining Queen Mary Ave western side (as in map).
Declared Wheeled Non-Motorised Recreational Devices and Wheeled Child’s Toys Free - 2

AREAS DECLARED FREE OF WHEELED NON-MOTORISED RECREATIONAL DEVICES AND/OR WHEELED CHILD’S TOYS

Under clause 81 Council may by resolution declare any part of the Municipal District Free of Wheeled Non-Motorised Recreational Devices and/or Wheeled Child’s Toys. That declaration may be unconditional, or limited to times of the day, days of the year, defined public holiday periods, special events and/or particular places. It is an offence to use a Wheeled Non-Motorised Recreational Device and/or Wheeled Child’s Toy in any declared area without a permit during the declared free times, dates or events.

Areas declared free of Wheeled Non-Motorised Recreational Devices and/or Wheeled Child’s Toys by Council resolution, as determined by Council from time to time are incorporated in Schedule 2 of this Local Law.

The following areas (as shown on the maps below) have been declared Free of Wheeled Non-Motorised Recreational Devices and/or Wheeled Child’s Toys without a permit, unconditionally:

KERANG – including an area bounded by the streets/roads: Wellington, Victoria, Scoresby, Nolan (back to Wellington), plus Victoria St from Scoresby to Wyndham.
Declared Wheeled Non-Motorised Recreational Devices and Wheeled Child’s Toys Free - 2

**COHUNA** - including an area bounded by the streets/roads: King George, Market, Channel, Cullen, (back to King George) plus King George to Park Lane East.
Schedule 11.3 of Local Government Act 1989 - 1

Local Government Act 1989
No. 11 of 1989

3 Power to remove unregistered or abandoned vehicles

(1) A Council may—

(a) move or impound any unregistered vehicle or vehicle considered by it to be abandoned (and anything in, on or attached to, the vehicle);

(b) keep the vehicle in the place to which it has been moved or any other place;

(c) return the vehicle to its owner on payment of a fee; and

(d) sell, destroy or give away the vehicle (and anything in, on or attached to, the vehicle) if the owner of the vehicle has not paid the fee within 7 days of the Council impounding the vehicle.

(2) The Council, and anyone who obtains the vehicle from the Council under subclause (1)(d), is not liable to the owner of the vehicle or any other person in respect of any action taken under that subclause.

(3) The fee set for the purposes of subclause (1)(c) must not exceed an amount that reasonably represents the cost to the Council of impounding, moving, keeping and releasing the vehicle (including any relevant overhead and other indirect costs).
5 Power to move other obstructions

A Council may—

(a) move any thing that encroaches on or obstructs the free use of a road or that reduces the breadth, or confines the limits, of a road (including any thing placed on the road under clause 9, 10 or 11);

(b) require any person responsible for, or in control of, the thing to move it.
Gannawarra Shire Council Policy 121 – Smoke Free Zones

In accordance with Gannawarra Shire Council Policy 121 – Smoke Free Zones, the following areas (as delineated and coloured red on the maps below) have been declared Smoke Free Zones at all times.

KERANG – Atkinson Park, Adams Court, Egg Park, Gannawarra Children’s Centre, Lyall Ave, McCann Crescent and Kerang Swimming Pool.
QUAMBATOOK – Swimming Pool, Recreation Reserve and Lions Park

![Map of QUAMBATOOK - Swimming Pool, Recreation Reserve and Lions Park]
LALBERT – Recreation Reserve and Lalbert Rest Stop

![Map of Lalbert Recreation Reserve and Lalbert Rest Stop](image1)

![Map of Lalbert Rest Stop](image2)
LEITCHVILLE – Trigg Park, Swimming Pool, Recreation Reserve, Keath Street Playground and Maternal Child & Health and playground
KOONDROOK – Apex Park and Maternal Child & Health Centre and swimming pool

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POLICIES

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SCHEDULE 2 136
Gannawarra Shire Council Policy 123 – Roadside, Parks and Reserves Trading

In accordance with Gannawarra Shire Council Policy 123 – Roadside, Parks and Reserves Trading, the following areas (as delineated by white hatching on the maps below) have been declared specific sites for itinerant trading.

Atkinson Park, Kerang

RSL Drive, Kerang

Garden Park, Cohuna
Gannawarra Shire Council Policy No. 124 – Asset Protection
Please refer to the above policy for activities under the following Local Laws:

61. Occupying or Opening a Road / Drainage Tapping
62. Vehicle Crossing Required
63. Constructing / Removing a Vehicle Crossing
64. Temporary Vehicle Crossings
65. Asset Protection - Building Works on Private Land
SCHEDULE 3 – PERMIT CONDITIONS

LOCAL LAW NO. 1 ‘Community Amenity’

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73. Use of Municipal Reserves Permit ................................................................. 133

The incorporated Standard Conditions at the beginning of this Schedule 3 are applicable to all permits issued under this Local Law.

To ensure procedural fairness and to enhance customer focus, community safety, individual site differences, and the protection of public assets, Council reserves the right to add additional clauses to the following permits, provided an Authorised or Delegated Officer reasonably believes any additional clause is relevant and based upon the individual circumstances of a permit application. All additional clauses must be consistent with the relevant local law, the relevant incorporated Guidelines in Schedule 1, and the incorporated Policies in Schedule 2.

Note: The following Schedule of Council Permit Conditions covers some of the most commonly requested permits, but is not exhaustive and should not be regarded as such. Any Permit Conditions not included in this Schedule may be obtained from Council’s website or by enquiry direct to Council (at the contacts below).

Fees relating to permits are determined annually by Council in its budgeting process and are available from Council’s website or by enquiry direct to Council.

Council Website is: www.gannawarra.vic.gov.au

Council’s enquiry email is: council@gannawarra.vic.gov.au

Council’s telephone number is: (03) 5450 9333

Council’s Kerang Office is at: Patchell Plaza, 47 Victoria St Kerang Vic 3579

Council’s Cohuna Office is at: 23-25 King Edward St, Cohuna Vic 3568

Council’s Office Hours: 8:30am-5:00pm Monday – Friday at Kerang, and
10.00 am – 4.00 pm Monday Friday (closed Tuesday 12.30 – 1.00 pm) at Cohuna

Council’s Postal Address: Gannawarra Shire Council, PO Box 287, Kerang 3579

The following Permit Conditions listed in Schedule 3, as determined by Council from time to time, are incorporated in this Local Law.
17. STANDARD PERMIT CONDITIONS

The following standard permit conditions, as determined by Council and amended from time to time, are incorporated in this local law and apply to all Permits issued or corrections to permits issued by Gannawarra Shire Council. They are in addition to, and, if in conflict with, override any conditions applicable to any specific type of permit. These conditions should form part of or be attached to every permit issued.

(1) The permit application must be accompanied by the appropriate fee, and the permit application will not be processed until the appropriate fee is paid in full to Council, or the fee due is made subject to an approved payment system.

(2) If application is approved and issuing the permit involves an additional fee or fees, the permit is not valid until the appropriate fee or fees are paid in full to the Council, or the fee due is made subject to an approved payment system.

(3) The applicant may be required to give public notice or written notice to adjoining landowners and other specified parties of such application inviting submissions.

(4) Except where otherwise expressly stated in this Permit, a Permit will operate from the date it is issued until 30 June next following that date.

(5) This Permit may be fully or partially cancelled or suspended by Council at any time, if in the opinion of the Authorised or Delegated Officer:

   (a) there has been any material misstatement or concealment in relation to the application for a Permit; or
   
   (b) there has been a failure to comply with any condition or conditions subject to which the Permit was issued.

Where paragraph (a) of this clause applies, the Permit may be suspended by giving seven (7) days’ notice of the decision to propose full or partial cancellation and of advice that an appeal may be lodged with the Council. If an appeal is lodged within that seven (7) days, the suspension continues until full or partial restoration or cancellation of the Permit is determined in the appeal to the Council.

Where paragraph (b) of this clause applies, any cancellation will not take place unless:

   (i) a Notice to Comply has been served upon the Permit Holder;
   
   (ii) there has been a failure to comply with the Notice to Comply within the time required;
   
   (iii) the failure to comply continues for a period of seven (7) days after the time specified in the Notice.

(6) Where the Permit Holder is not the owner of the property to which the Permit applies and the owner’s consent was required to be given to the application for the Permit, the owner must be notified of any and all Notices to Comply and the reasons why it has been served on the Permit Holder.
(7) The Council reserves the right to correct or modify any Permit in relation to a clerical mistake or other error arising unintentionally or by an omission; or an evident material miscalculation of figures or an evident material mistake in description of any person, thing or property referred to in the Permit. The Council will give notice of any correction or modification of a Permit to the Permit Holder.

(8) Permit applicants should also be aware that under the Local Law any person who makes any false representation or declaration (whether oral or in writing) in, or who omits any relevant information from, an application for a Permit or exemption is guilty of an offence with a maximum penalty of 20 Penalty Units. Also any person who fails to comply with a Notice to Comply within the required time is guilty of an offence with a maximum penalty of 10 Penalty Units.

(9) Any permit applicant or holder who is aggrieved by any matter in the granting, reviewing, modification, suspension, cancellation or renewal of this Permit, and/or in relation to any written notice, Notice to Comply or Infringement Notice issued in relation to breaches of conditions of this Permit, may by written request within twenty-eight (28) days of the date of the incident, notice or matter concerned, seek a review by Council (including by its delegated appeals officers) of the matter. However, the making of any such request will not in any way remove that person’s obligation to act in accordance with any directions or notices which are applicable under the Permit or any notices issued pursuant to matters related to this Permit.

(10) As Council is the final review authority in matters relating to this Permit, Council’s review decision is final. However, if the review involves any infringement or penalty notice issued in relation to the permit, then during the review process such a notice will be suspended pending the review decision. Following any such Infringement Notice review decision, there is a further right to be heard in the Magistrate’s Court provided notice is given to Council within 14 days.

End of Standard Permit Conditions
35. SHIPPING CONTAINER - PERMIT

Conditions of permit

(1) The entire fee for the permit must be paid in full prior the placement of the container.

(2) The permit for a Shipping Container is be time limited and is for the number of days or to the date entered on the Permit, and must be removed on or prior to the expiry date of the Permit unless a further permit is granted.

(3) It is the permit holder’s responsibility to ensure the container does not represent an unacceptable risk to the health and safety of the public.

(4) If the Shipping Container is placed on Council Land, or if it will create a risk to public safety or an obstruction to traffic on private land, the permit holder must hold a Public Liability Insurance Policy for at least $10 million covering the Shipping Container for the duration of the period the Shipping Container remains on Council Land.

(5) The Shipping Container must not be used as a permanent structure.

(6) Any damage to Council property caused by the placement or removal of the Shipping Container, including pavement, nature strip and services, is to be reinstated by the permit holder. If reinstatement is not completed, works will be undertaken by the Council at the permit holder’s expense.

(7) The Container must not obstruct motorists’ vision or line of sight at intersections and pits, valve covers and hydrants must remain accessible.

(8) If the Shipping Container constitutes a traffic hazard or obstruction, the container must be mounted with yellow reflective tape on the corners of the containers, or lights which must be illuminated between sunset and sunrise and visible from a distance of 200 metres to prevent a hazard to the public.

(9) Any additional clause which an Authorised or Delegated Officer reasonably believes is relevant and based upon the individual circumstances of an application may be appended to this list of terms and conditions.

End of Shipping Containers on Private land Permit Conditions
60. OCCUPYING OR OPENING A ROAD / DRAINAGE TAPPING PERMIT

Conditions of Permit

(1) Excavations must be the minimum size for the work in hand. Concrete roads and footpaths are to be saw cut and not be broken unless this is absolutely unavoidable.

(2) All excavated materials are to be kept segregated and replaced in the order in which they are removed from the excavation. In road pavements all excavated material is to be replaced with 20mm class 2 FCR. Each layer is to be thoroughly consolidated. Layers shall be replaced in thickness not exceeding 150mm and be thoroughly consolidated before placement of the next layer. A temporary seal consisting of 40mm of P.C.M. (Cold Mix asphalt) is to be applied to road pavement and footpath openings.

(3) The recipient of this permit shall cause all works to be adequately barricaded and lighted for the protection of traffic (both pedestrian and vehicular) and shall be responsible for any damages incurred by reason of civil action. Appropriate advance warning signs shall be erected where necessary. Such barricades, lights and warning signs shall be provided by the recipient of the permit in accordance with AS 1742.3 Temporary Roadworks Signing Code of Practice.

(4) Should the above conditions be not carried out a further charge sufficient to cover the cost of bringing the work into conformity therewith will be made.

(5) If the area of road opened as measured by Gannawarra Shire Council exceeds the area for which an estimated reinstatement charge has been paid, an account for the extra area will be rendered to the recipient of the permit.

(6) If the area of road opened is less than the area for which a fee has been paid, a written request for a refund, based on the reduced area opened, will receive consideration by the Council.

(7) Recipients of street opening permits are reminded of their obligations at law in connection with the opening of roads and the placing of obstructions thereon.

(8) The road shall at all times be kept open for traffic, unless written permission has been obtained from the relevant Council Officer.

(9) Unless otherwise approved by Council, all permanent repairs to road pavement, footpath, nature strip, kerb and channel, vehicular crossings, lanes and unmade roads shall be carried out by the Council.

(10) All backfilled trenches or excavations carried out under this permit shall be maintained in a safe condition by the person taking the permit out for a period of twenty eight (28) days after notification to Council of completion of the work.

(11) The recipient of this permit shall at all times keep roads, footpaths and channels in a clean and tidy condition and upon completion of the work shall remove all surplus materials.

(12) Vehicle crossings shall be constructed in accordance with the requirements described in the Council’s specification, a copy of which will be made available upon request at the Technical services Department. The onus is on the permit holder to obtain the necessary drawings and specifications prior to construction.

(13) Persons digging trenches are reminded of the need to take appropriate safety precautions and to comply with the relevant provisions of Clause 202 of the Mines (Trenches) Regulations (1979). Information can be obtained from the Occupational Health and Safety Authority.
(14) This permit is valid for 12 months from the date of issue.

(15) All drains to be constructed in accordance with requirements specified by the Technical Services Department and/or building surveyor as appropriate.

(16) Connections to council’s drains or pits are to be carried out in accordance with Council’s standard drawings and specifications.

(17) A drainage tapping to a legal point of discharge is for the purpose of rain water only. Council or an Authorised or Delegated Officer must approve any other discharge before connection and/or any discharge. Additional information regarding the source, quality (chemical and biological), quantity and frequency of such discharge may be required prior to assessment for approval.

(18) All disturbed nature strips are to be top dressed with a minimum of 50mm of seeded sandy loam topsoil.

(19) Any additional clause which an Authorised or Delegated Officer reasonably believes is relevant and based upon the individual circumstances of an application may be appended to this list of terms and conditions.

End of Drainage Tapping/ Road Opening Permit Conditions
65. BUILDING WORKS ON PRIVATE LAND

ASSET PROTECTION PERMIT

Work is permitted, subject to the conditions hereunder, to transport building materials, machinery and equipment across the road reserve to gain access to: [address]

Conditions under which permit is granted

1. A non-refundable permit fee as specified above is paid to the Gannawarra Shire Council prior to the commencement of works.

2. A Security Deposit as specified is to be lodged with the Gannawarra Shire Council. The amount of the deposit is to be determined by Council’s Authorised officer.

3. Ensure that a tree protection fence is in place for Council’s nature strip (street) tree if requested, in accordance with Australian Standard No. 4970-2009, Protection of Trees on Development Sites.

4. Where the Council’s assets have been protected or restored to Council’s standard, the Security Deposit will be refunded in full.

5. Failure to restore the road reserve and make good any damage caused to Council’s assets within 14 days of notification by Council to do so will result in Council undertaking the necessary reinstatement works and deducting the cost from the Security Deposit. Where a portion remains unused, it will be refunded. Where the costs exceed the Security Deposit, the permit holder will be liable for the excess and invoiced accordingly.

6. The permit holder is to take all necessary precautions to ensure that Council’s assets are not damaged.

7. No building material shall be placed on the naturestrip, footpath, road or Council Reserve without prior written approval of Council.

8. No buildings such as site sheds, toilets etc., or activities associated with any building works shall be placed/carried out on the naturestrip, footpath or reserve without prior written approval from Council.

9. All public areas disturbed by any building activity is to be maintained in a safe trafficable manner.

10. The entry point for the transport of materials should be confined to any existing vehicle crossing point. Where a property is not provided with a permanent vehicle crossing, a temporary crossing will be required to be installed if directed by Council’s Authorised Officer.

11. The site is to be managed to minimise the risks of stormwater pollution or the deposit of sediment on roadways.

12. Any additional clause which an Authorised or Delegated Officer reasonably believes is relevant and based upon the individual circumstances of an application may be appended to this list of terms and conditions.

13. The permit is valid for the entire period of the works.

End of Building on Private Property – Asset Protection Permit Conditions.
74. USE OF MUNICIPAL RESERVE PERMIT

The Use of Municipal Reserve Permit takes a number of forms and may include a Casual Use & Filming Permit, a Works Permit, an Events Permit, and a Tour Operators/Recreational Activity Providers Permit. All Permits also include Gannawarra Shire Council’s Standard Permit Conditions.

Permit for Use of a Municipal Reserve - Casual Use & Filming

Permit Conditions –

1. **Condition of venue**

The Hirer agrees and acknowledges that the venue and/or reserve is in good repair and clean condition at the commencement of the hire period and must be returned to the Gannawarra Shire Council (Council) in the same condition at the end of the hire period.

The Hirer shall reimburse Council for the cost of any reinstatement or repairs occasioned as a result of any damage to property resulting from the conduct of the function and any associated activities.

Due care is to be exercised at all times, with the protection of all natural vegetation and geographical features in the area being a prime consideration.

If the Hirer causes damage, Council retains the right to withhold part or all of the security deposit towards the cost of repair and/or reinstatement. If no security deposit is held, Council retains the right to invoice the Hirer the full cost of repair and/or reinstatement.

2. **Signage**

The use of any portable, freestanding signs on or above any roadway, footpath or public place without prior approval from the Responsible Manager is prohibited.

3. **Council direction**

The Hirer shall have regard to any lawful direction or instruction given by an authorised officer of the Council in relation to the conduct of the function.

All Council Local Laws must be complied with at all times.

4. **Amplification equipment / noise**

The use of any amplification equipment shall be kept to a level prescribed by the Environment Protection Act (72 decibels and must not disturb other users).

5. **Litter**

Litter generated shall be removed from the site immediately after the event. Confetti and petals are considered litter and should not be used. If the site is left in an unclean condition following usage, the Council retains the right to withhold part or all of the security deposit towards the cost of any clean-up.
6. **Booking process (separate from this Permit) Inadequate or False Information**

Confirmation of casual use bookings should be made on the appropriate Permit application form. The completed form should be forwarded with payment at least 10 business days prior to the proposed use. The Permit includes a booking confirmation and will be forwarded to the applicant.

If payment is not received with the Permit application, any booking may be cancelled.

You must declare all relevant facts on your Permit application, in order for Council to assess the application. If you fail to do so, your Permit may not be issued and any booking may be revoked without notice. Council will not be held liable for any damages or losses incurred. Permit applications should be received by Council at least 10 business days prior to the booking date. All bookings are subject to availability, suitability and completely at Council’s discretion.

7. **Indemnity**

The Permit Holder hereby covenants with Gannawarra Shire Council (hereinafter referred to as “the Council”) that unless caused by a breach of statutory duty or common law by the Gannawarra Shire Council or any of its officers, agents, employees or contractors, the Permit Holder agrees to indemnify the Council and keep the Council indemnified from and against all and any damage, loss, cost or liability incurred or suffered by any person as a result of the Permit Holder’s failure to comply with any conditions of the Permit granted by the Council, or any other failure to comply with any relevant law, lawful duty or obligation giving rise to any damage, loss, cost or liability incurred or suffered by any person as a result of or in any way associated with the exercise of this Permit.

8. **Keys**

Where a key is required, for an approved use, this must be collected from the Customer Service desk, Gannawarra Shire Council, Patchell Plaza, 47 Victoria St Kerang, (or other office by arrangement) on the last working day prior to booking. The key must be collected, by prior arrangement, during business hours, 8.30am to 5pm. It must be returned the first working day following the booking. A fully refundable key deposit of $50.00 per key is required.

9. **Bollard keys**

It is the Hirer’s responsibility to ensure that bollards are safe and secured after removal and they are returned and secured at the end of the hire period. Council retains the right to invoice the Hirer the full cost of repair and/or reinstatement for any loss.

10. **Vehicles / parking**

Vehicles may only be taken onto Council reserves and parks if the Permit specifically allows this. This approval is limited to those vehicles essential for the conduct of the approved activity (e.g. wedding party, film crew, disabled access). The Responsible Manager or an Authorised or Delegated Officer reserves the right to revoke this approval in certain weather conditions.
11. **Liquor and food**

Between sunset and sunrise, a person must not, on any Municipal Reserve, whether it be a Road within a Municipal Reserve or not, or in any motor vehicle within a Municipal Reserve, consume any Liquor, or have in his or her possession or control, any Liquor, other than Liquor in a container with an unbroken seal.

No alcohol or food can be served as part of a commercial Permit arrangement without the necessary Permit approval from Council.

12. **Marquees and other portable structures**

Gannawarra Shire Council may require a Security Deposit of $500 if a portable structure and/or other infrastructure is to be located on the site.

The Security Deposit will be refunded by cheque within 4 weeks after the function, subject to the site being left in a satisfactory condition.

No ground penetration securing system or device is permitted at parks with irrigation systems.

If required for this permit, a current Certificate of Currency of the supplier’s Public Liability insurance for a minimum of $10 million must be provided to Gannawarra Shire Council prior to approval being granted.

13. **Booking BBQ’s, park structures and amenities**

No park amenities, structures or BBQ’s can be booked.

Please ensure that all users connected with your booking conduct themselves with due respect and consideration of others with regard to shrines, memorials, park furniture, structures and amenities.

14. **Filming and photography**

(a) If filming and photography is for private, non-commercial, community and/or social media purposes and the images will not be publicly exhibited or broadcast for television, then no permit is required. All other filming or photography that is conducted for commercial or television broadcasting purposes or for public exhibition, excluding news media must not be undertaken on land that is managed by Council without a permit.

(b) Where a permit for filming or photography on Council Land is required:

The production company (the permit holder) may be required to letter box drop ALL residents and businesses which may be affected by the filming process at least 48 hours in advance.

If required to do so, the production company (the permit holder) must provide a copy of the letter that has been letter box dropped to the affected properties to Council.
15. Public Liability Insurance

Council reserves the right to make a condition of this Permit that the Applicant show evidence of current public liability insurance to an amount approved by Council, depending upon the nature of the proposed activity.

16. Other

Any additional clause which an Authorised or Delegated Officer reasonably believes is relevant and based upon the individual circumstances of an application may be appended to this list of terms and conditions.
SCHEDULE 4 – FORMS

LOCAL LAW NO. 1 ‘Community Amenity’

The following forms are included but not incorporated in this local law. Council reserves the right to amend forms from time to time based on the changing need or new circumstances.

NOTICE TO COMPLY

TO: ____________________________________________________________
   (Name)

   ____________________________________________________________
   (Address)

The following constitutes a breach under clause _________ of the Council’s Local Law No. 1 – Community Amenity. To remedy the breach you must carry out the following work, within _________ days from the date of this notice.

Work to be done ______________________________________________________
   ____________________________________________________________
   ____________________________________________________________

You should contact the undersigned at the Municipal Offices during business hours for any further information about this Notice.

If you fail to comply with this Notice you will be guilty of an offence and liable for payment of the penalty of $___________ (penalty) for the offence. Additionally, an Authorised Officer may proceed to have any required work carried out, in which case, you will be liable for the cost of such works (in addition to the above penalty) under Section 225 of the Local Government Act 1989.

Date ___________________________ ___________________________
   (Insert Date)          (Name of Authorised Officer)

Telephone ___________________________ ___________________________
   (Signature of Authorised Officer)

NOTE: If this notice relates to a contravention of a Permit there is no compliance with the Notice, the Permit may be cancelled. If you do not wish to have the Permit cancelled you should comply with the directions in this Notice or show cause to the Council in writing why the Permit should not be cancelled.
NOTICE OF IMPOUNDING

TO: ______________________________________
(Name)

_____________________________________
(Address)

The following thing(s) has/have been impounded in accordance with clause 15 of the Council’s Local Law No. 1 – Community Amenity.

(Describe thing(s) impounded) ____________________________________________

_____________________________________

You may collect the thing(s) by attending at the municipal offices during normal business hours and paying the following:

Details of Fees and Charges                                      $________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

TOTAL $________

If you fail to collect the thing(s) and pay the required fees and charges by ____________ (date), the Council’s Authorised Officer will proceed to dispose of the thing(s) in accordance with Council policy.

Date ___________________________  ___________________________
(Insert Date)  (Name of Authorised Officer)

Telephone ___________________________  ___________________________
(Signature of Authorised Officer)
APPLICATION FOR PERMIT

Applicant: ________________________________________________________________

Organisation: ______________________________________________________________

Address:  ___________________________________________________________________

____________________________________________________________________________

Telephone: BH: ___________ AH: ___________ Mobile: ________________

Application to:  ______________________________________________________________________________

____________________________________________________________________________

____________________________________________________________________________

____________________________________________________________________________

For further information I may be contacted on _______________ ________________ (telephone).

Fee: $____________________________________________________________

Declaration: I attach a copy of Certificate of Currency for public liability insurance ($10m), which provides indemnity to Gannawarra Shire Council in relation to this application and permit, and agree to abide with all conditions herewith.

Signature ___________________________ Date _____/_____/______

Name (please print) __________________________________________________________

Please note: Council collects your personal information for the purposes of processing your application for a permit. If you have any questions, concerns or complaints regarding privacy, please write to: Information Privacy Officer, Gannawarra Shire Council, PO Box 287, KERANG 3579. For a copy of Council’s Privacy Policy please contact Council’s Customer Service Desk or email council@gannawarra.vic.gov.au

Office use only

T110   account: E1166.1025                        amount: $

Received from ______________________________________________________________
STANDARD INDEMNITY FORM
GANNAWARRA SHIRE COUNCIL

This section to be completed by the Permit Holder or their authorised representative

FORM OF INDEMNITY

I, __________________________________________ (Name of the Person)

of __________________________________________ (Address of Person) in the State of Victoria

holding the position of __________________________________________ (Role or Position in Business)

in the business named __________________________________________ (Business Name)

with ABN or ACN __________________________________________ (Australian Business or Company Number)

of __________________________________________ (Business Address) for which business I am duly authorised to sign this indemnity,

in consideration of the Permit for __________________________________________ (the nature of the permit)

on the Footpath or Road being granted to __________________________________________ (Name of Person or Incorporated Business Name on the Permit)

(referred to as “the Permit Holder”) HEREBY COVENANTS with GANNAWARRA SHIRE COUNCIL (hereinafter referred to as “the Council”) that unless caused by a breach of statutory duty or common law by the Gannawarra Shire Council or any of its officers, agents, employees or contractors, the Permit Holder agrees to indemnify the Council and keep the Council indemnified from and against all and any damage, loss, cost or liability incurred or suffered by any person as a result of the Permit Holder’s failure to comply with any conditions of the Permit granted by the Council, or any other failure to comply with any relevant law, lawful duty or obligation giving rise to any damage, loss, cost or liability incurred or suffered by any person as a result of or in any way associated with the exercise of this Permit.

SIGNED SEALED AND DELIVERED by

______________________________ __________________________
(Print Name) (Sign)

______________________________ __________________________
(Print Position) (Date)

in Victoria in the presence of:

______________________________ __________________________
(Print Witness Name) (Witness Sign & Date)
**LOCAL LAW NO. 1 ‘Community Amenity’**

**TABLE OF MAXIMUM PENALTIES and INFRINGEMENT NOTICE PENALTIES IN RESPECT TO OFFENCES AGAINST THE LOCAL LAW**

*Why are Infringement Penalties different from Maximum Penalties?*

**Infringement Notice penalties** are used to simplify the process of enforcing less serious breaches of the law. Infringement Notices avoid the complex process of Court prosecution. When Infringement Notices are paid on time, no conviction is recorded by a Court. The amount of an Infringement penalty is normally significantly less than the potential maximum penalty a Court might impose for the same offence.

* ‘An infringement penalty should generally be approximately no more than 20 – 25% of the maximum penalty for the offence’: Annexure A, Attorney-General’s Guidelines to the Infringements Act 2006 (Vic).

**Maximum penalties** may be imposed by a Court when:

- Council chooses to prosecute an offence, rather than issue an Infringement Notice, or
- A person receiving an Infringement Notice chooses to have the matter heard in Court.

**A ‘Penalty Unit’** means a penalty unit under the Sentencing Act 1991, s. 110(2) and/or Monetary Units Act 2004, s. 13(2). For Local Laws, a penalty unit is currently fixed by the State Government at the value of $100 per penalty unit (but this may vary from time to time).

If any offence under this Local Law is not set out in the table below, the infringement penalty for that offence will be 20% of the maximum penalty.

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title</th>
<th>Maximum Penalty Units</th>
<th>Infringement Notice Penalty Units</th>
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</thead>
<tbody>
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<td>Clause</td>
<td>Title</td>
<td>Maximum Penalty Units</td>
<td>Infringement Notice Penalty Units</td>
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<td>40 (2)</td>
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<tr>
<td>43 (2)</td>
<td>Grazing or Droving on a road contrary to a permit</td>
<td>20</td>
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<tr>
<td>44</td>
<td>Failure to remove Animal or Offensive Waste dropped on a road</td>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>45 (1)</td>
<td>Depositing material contrary to notice Recycling Bin</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>45 (2)</td>
<td>Placing Recycling Bin on Council Land without a Permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>46 (1)</td>
<td>Bulk rubbish containers on a Road without Permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>47</td>
<td>Use of Motor Bikes and Motor Recreational Vehicles contrary to Local Law</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Clause</td>
<td>Title</td>
<td>Maximum Penalty Units</td>
<td>Infringement Notice Penalty Units</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------------------------------------</td>
<td>------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>48</td>
<td>Dismantling of vehicles on Roads</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>49 (1)</td>
<td>Leave a derelict, abandoned or unregistered vehicle on Council Land</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>50 (2)</td>
<td>Use of Restricted Use Roads by Heavy Vehicle – without permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>51 (1)</td>
<td>Holding a Street Festival without a Permit</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>52 (1)</td>
<td>Roadside trading without permit</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>52 (2)</td>
<td>Roadside performance (busking) without a permit</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>53</td>
<td>Roadside trading on another’s pre-allocated site</td>
<td>10</td>
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<tr>
<td>55 (1)</td>
<td>Displaying goods for sale on a Road without permit</td>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>56 (1)</td>
<td>Use of Council Land for a Commercial Outdoor Eating Facility without permit</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>56 (2)</td>
<td>Use of Council Land adjoining Licensed Premises for sale or consumption of alcohol without a permit</td>
<td>20</td>
<td>5</td>
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<tr>
<td>57</td>
<td>Failing to Remove the Outdoor Eating Facility</td>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>58 (1)</td>
<td>Advertising sign on Council land without permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>59 (1)</td>
<td>Collecting or Trading house to house without permit</td>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>59 (2)</td>
<td>Collecting on Council Land or on a Road without a permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>60 (1)</td>
<td>Collection/placement/storing of trade waste bins contrary to Local Law</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>61 (1)</td>
<td>Occupy or open a road without a Permit</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>61 (2)</td>
<td>Drainage Tapping, opening road without Permit</td>
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<td>5</td>
</tr>
<tr>
<td>62 (1)</td>
<td>Failure to provide or maintain a properly constructed vehicle crossing</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>63 (1)</td>
<td>Construct remove vehicle crossing without a permit</td>
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<td>5</td>
</tr>
<tr>
<td>63 (2)</td>
<td>Removing, or damaging street tree from works on vehicle crossing</td>
<td>5</td>
<td>1</td>
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<tr>
<td>63 (3)</td>
<td>Failure to make good redundant vehicle crossing</td>
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<td>5</td>
</tr>
<tr>
<td>64 (1)</td>
<td>Temporary Vehicle Crossing– Failure to obtain Permit, or Repair Damage, or Reimburse Council</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>65</td>
<td>Building Works contrary to requirements</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>66</td>
<td>Consumption and possession of Liquor on Roads</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
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</tr>
<tr>
<td>67</td>
<td>Consumption and possession of Liquor on Municipal Reserves</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>68 (3)</td>
<td>Consumption of Alcohol in Alcohol Free Areas</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>68 (4)</td>
<td>Using Glass Containers contrary to Permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>70 (3)</td>
<td>Smoking in declared smoke free areas</td>
<td>10</td>
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</tr>
<tr>
<td>71</td>
<td>Contrary Behaviour in a Municipal Place</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>72</td>
<td>Damaging/defacing a Municipal Place</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>73</td>
<td>Interference with watercourse</td>
<td>20</td>
<td>5</td>
</tr>
<tr>
<td>74</td>
<td>Obstructions on Council Land</td>
<td>15</td>
<td>3</td>
</tr>
<tr>
<td>75</td>
<td>Contrary behaviour in a Municipal Reserve</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>76</td>
<td>Use of a Municipal Reserve without permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>77 (4)</td>
<td>Unauthorised Accessing Municipal Reserve</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>78 (1) (2)</td>
<td>Camping on Council Land or Other Public Land</td>
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<tr>
<td>79 (1), (2), (3)</td>
<td>Lighting a fire on Council Land</td>
<td>20</td>
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</tr>
<tr>
<td>80</td>
<td>Filming on Council Land without a Permit</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>81</td>
<td>Parking on Municipal Reserve</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>82 (3)</td>
<td>Using wheeled non-motorised device or child’s toy in a restricted area</td>
<td>10</td>
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</tr>
<tr>
<td>84</td>
<td>Contrary behaviour in a Municipal Building</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>85</td>
<td>Use of a Municipal Building without consent</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>86 (3)</td>
<td>Failure to comply with a condition of a Permit or exemption</td>
<td>20</td>
<td>5</td>
</tr>
</tbody>
</table>
Resolution for the making of this Local Law was agreed to by the Council on the 18th day of April 2012.

THE COMMON SEAL of GANNAWARRA SHIRE COUNCIL was hereunto affixed in accordance with LOCAL LAW 7 on the 30th day of April 2012

[Signature]

Chief Executive Officer (signature)

P. Roseanne Mary KAVA Full name

Notices of the proposal to make and of the making of this Local Law were included in the Victorian Government Gazette on dates of 23 February 2012 and 26 April 2012 respectively.

Public Notices of the proposal to make and confirmation of this Local Law were inserted in the Northern Times on Friday 24 February 2012 and Friday 27 April 2012 respectively, and in the Corowa Farmers Weekly on Wednesday 22 February 2012 and Wednesday 25 April 2012 respectively.

A copy of this Local Law was sent to the Minister for Local Government on the 30th day of April 2012.