

# **ATTACHMENT TO AGENDA ITEM**

**Ordinary Meeting**

**19 June 2018**

**Agenda Item 9.3      Local Law No.1 - Community Living**

**Attachment 1      Community Living Local Law 2018.....187**

# **Greater Shepparton City Council**

## **Community Living Local Law**

### **Local Law No. 1, 2018**

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**GREATER SHEPPARTON CITY COUNCIL****LOCAL LAW NO. 1****Community Living****PART 1 – INTRODUCTION****1.1 Objectives**

This Local Law No. 1 of the Greater Shepparton City Council ('Council') is for the purpose of:

- (a) providing for the peace, order and good government of the municipal district of the Greater Shepparton City Council;
- (b) providing for those matters which require a Local Law under the *Local Government Act 1989*, and any other Act;
- (c) providing for the administration of Council powers and functions, and for the issue of permits and infringement notices;
- (d) prohibiting, regulating and controlling activities, physical works including construction, events, practices or behaviour in the municipal district so that no detriment is caused to the amenity of the neighbourhood, nor nuisance to a person, nor detrimental effect to the environment or property;
- (e) regulating and controlling the consumption of liquor and possession of liquor other than in a sealed container;
- (f) protecting assets vested in Council;
- (g) regulating the droving, grazing and movement of livestock throughout the municipal district, minimising the damage to road surfaces, formations, drainage, native vegetation and surrounding areas arising from livestock and to alert other road users to the presence of livestock on roads in the interests of road safety;
- (h) enhancing public safety and community amenity; and
- (i) supporting the Council to undertake its powers and duties in relation to drains and drainage of land.

**1.2 Power to make this Local Law**

This Local Law is made pursuant to section 111 of the *Local Government Act 1989* and section 42 of the *Domestic Animals Act 1994*.

### 1.3 Period of Operation

This Local Law shall come into operation on # \_\_\_\_\_ #, and shall cease to operate on # \_\_\_\_\_ #.

### 1.4 Extent of Application

This Local Law shall apply to and have operation throughout the whole of the Municipal District of the Greater Shepparton City Council.

### 1.5 Consistency

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

### 1.6 Definitions

Unless the contrary intention appears in this Local Law, the following words are defined to mean:

“Act”	means the <i>Local Government Act 1989</i> unless the context in which it is used indicates otherwise.
“animal”	excludes a person but includes, although not limited to, any of the species or groups listed in the first column of the Table of Animal Numbers and Types in clause 6.1 (Keeping Animals), and includes livestock, reptiles, insects and any other living animal tame or wild kept by a person.
“asset protection permit”	means a written permit issued by Council or an authorised officer for the protection of Council Assets.
“authorised officer”	means an authorised officer appointed under section 224 of the Act.
“barbeque”	means a device intended or 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.
“builder”	means a person or company to whom a building permit has been issued under the <i>Building Act 1993</i> or the person or company in charge of or directing or undertaking any building work on any land.
“builder’s refuse”	includes any solid or liquid, domestic or commercial waste, debris or refuse, and without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work.

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<b>“building”</b>	includes any structure or building, whether temporary or permanent, or any part of such building or structure.
<b>“building site”</b>	means land on which building works are being (or have been) undertaken.
<b>“building work”</b>	includes work for or associated with the construction, renovation, alteration, demolition, relocation or removal of a building including landscaping, road making and drainage work.
<b>“bulk refuse container”</b>	means a lidded refuse container having a greater capacity than one cubic metre used for the containment of refuse and waste materials.
<b>“busk”</b>	means to perform to the public, whether by acting, juggling, dancing, singing, mime, statue, drawing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting gratuities.
<b>“camp”</b>	means to live in, sleep in, occupy or use a tent, makeshift structure, caravan, campervan, mobile home, prefabricated holiday unit or any vehicle (including under the vehicle) for sleeping all or part of a night or as temporary accommodation but excludes brief ‘power napping’ in a vehicle beside a highway for one hour or less.
<b>“caravan”</b>	means any caravan whether or not any of the wheels or axles thereof have been removed or the body of the vehicle or structure is resting directly on the ground or other supports and includes any structures annexed thereto.
<b>“cat”</b>	means a cat over three months of age.
<b>“Chief Executive Officer”</b>	means the person for the time being occupying the office of Chief Executive Officer of Council, and includes a person acting in that office.
<b>“clothing bin”</b>	means a bin designed for the collection of clothing and other items, and identified as such, for charitable or other purposes.
<b>“Code of Practice”</b>	means any Code of Practice published by the relevant department of the Government of Victoria (eg: Pets and Animal Welfare Unit) and includes but is not limited to the following: <ul style="list-style-type: none"> <li>(a) The Code of Practice for the housing of caged birds; or</li> <li>(b) The Code of Practice for the private keeping of dogs; or</li> <li>(c) The Code of Practice for the private keeping of cats.</li> </ul>

<b>“commercial area”</b>	means all land zoned Commercial or Industrial under a Planning Scheme in force in the municipal district.
<b>“Council”</b>	means the Greater Shepparton City Council.
<b>“council asset”</b>	means any building, structure, fixture, road, channel, drain, vehicle crossing or infrastructure or other physical asset owned, leased, managed or controlled by Council and includes any Council asset described in clause 3.7.
<b>“Council land”</b>	means any land, owned or vested in, or under the control or management of the Council excluding a Road, but including a municipal reserve or other reservation, watercourse, foreshore reserve, jetty, pontoon or boat ramp, and includes any structures, artworks, public decorations or other public displays erected upon or situated at these places including any waterway.
<b>“daylight hours”</b>	means the hours between sunrise and sunset.
<b>“designated camping area”</b>	means an area which is designed for, and has its main use for camping, provided that it has all necessary approvals or has otherwise been designated by Council as a camping area.
<b>“direction”</b>	means a verbal or written direction issued by an authorised officer.
<b>“dog”</b>	means a dog over three months of age.
<b>“domestic animal”</b>	means a cat or a dog as defined in this Local Law.
<b>“domestic bird”</b>	means a small bird such as a canary, finch, budgerigar and the like which is kept by, or under the care or control of, a person in a dwelling, but excludes poultry.
<b>“droving of livestock / drive livestock”</b>	means the 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 movement of livestock.
<b>“dwelling”</b>	means a house, flat, apartment, or any portion thereof, and includes a tent, caravan, sleepout, bungalow, or other place of abode whether temporary or permanent.
<b>“effective control”</b>	means control by a person or persons alone or using dogs, devices, fences or other equipment so as to ensure livestock are not trespassing or endangering persons or objects.

<b>“event”</b>	means an organised sporting, recreational, cultural, commercial or social gathering including a market, promotional activity, wedding, animal nursery or similar, parade or procession which is held on a road or Council land.
<b>“farming zone”</b>	means an area identified as being a farming zone under a Planning Scheme in force in the municipal district.
<b>“goods”</b>	means any item whatsoever that is offered for sale and includes a motor vehicle, motor cycle, caravan, trailer, boat or similar item.
<b>“grazing of livestock / graze livestock”</b>	means causing livestock to enter and remain on a road for the purpose of grazing rather than for the purpose of droving or movement of livestock. It relates to grazing a particular or designated area and not to indiscriminate droving for the purpose of or including supplementary feeding.
<b>“incinerator”</b>	means a structure, device or contraption (not enclosed in a building) which is: <ul style="list-style-type: none"> <li>(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;</li> <li>(b) not licensed or otherwise subject to control under the provisions of any legislation; and</li> <li>(c) not a barbeque or a manufactured fireplace for the purpose of outdoor heating or cooking.</li> </ul>
<b>“irrigation water”</b>	means any water to be used, or which has been used, by the owner or occupier of any land for the purpose of irrigating such land and whether or not it has been mixed with other water.
<b>“land”</b>	includes buildings and other structures permanently affixed to land, land covered with water, and any estate, interest, easement, servitude, privilege or right in or over land. <sup>1</sup>
<b>“Large and/or Noisy Bird”</b>	Means, in relation to the keeping of an Animal, any large and/or noisy bird capable of causing a disturbance or discomfort to neighbours particularly by noise, such as a cockatoo, macaw, peacock, large parrot, pheasant, turkey, goose or other similar sized bird or any other noisy bird regardless of size, but excludes poultry, a pigeon or other small non-noisy bird.

<sup>1</sup> Note : The same meaning as in section 38 of the *Interpretation of Legislation Act 1984*

<b>“liquor”</b>	means a beverage intended for human consumption with an alcoholic content greater than 0.5 per centum by volume at a temperature of 20 degrees Celsius.
<b>“livestock”</b>	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 cat. <sup>2</sup>
<b>“minor building work”</b>	means building work valued at less than \$5,000 but excludes the construction of any masonry structure and the demolition and removal of buildings and structures (regardless of value).
<b>“mobile waste bin”</b>	means a mobile waste bin supplied to any property by, or on behalf of, Council for the purpose of disposing of waste material nominated by Council.
<b>“movement of livestock”</b>	means individual or regular movement of livestock as part of normal farm management operations, but not for purposes of grazing, from one property to another property within the municipal district, or from or to a property in an adjacent municipal district and the movement is completed on the day of commencement.
<b>“native vegetation”</b>	has the same meaning as in the Planning Scheme.
<b>“naturestrip”</b>	means the piece of land between the front boundary of privately owned and the kerb of the adjoining road, excluding the footpath.
<b>“notice to comply”</b>	means a notice in writing issued by an authorised officer directing compliance with any provision of this Local Law.
<b>“offensive”</b>	means noxious or injurious to personal comfort.
<b>“official sign”</b>	means any sign, signal, light, marking or other device placed or erected with the authority of Council for the purpose of regulating, prohibiting, warning or guiding persons whether with or without vehicles.

<sup>2</sup> The same meaning as in section 3 of the *Impounding of Livestock Act* 1994

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<b>“owner”</b>	<p>when used in respect of:</p> <ul style="list-style-type: none"> <li>(a) an animal includes a person who keeps or harbours the animal or has the animal in his or her care for the time being, whether the animal is at large or in confinement; or</li> <li>(b) a vehicle, has the same meaning as in the <i>Road Safety Act 1986</i>; or</li> <li>(c) premises has the same meaning as in the Act; or</li> <li>(d) any other thing means the person apparently in control of the thing; and</li> <li>(e) where a person as defined in (a) to (d) above is a corporation includes a natural person who is a director or the officer in effective control of the corporation.</li> </ul>
<b>“penalty unit”</b>	means a penalty unit as defined by section 110 of the <i>Sentencing Act 1991</i> or any Act amending same.
<b>“permit”</b>	means a written permit issued by Council or an authorised officer under this Local Law.
<b>“person undertaking building works”</b>	means the person on the building site who is undertaking the building work, including trades people and owner builders.
<b>“poultry”</b>	means any female chicken and excludes Large and/or Noisy birds or pigeons.
<b>“prohibited road”</b>	<p>means a road designated as:</p> <ul style="list-style-type: none"> <li>(a) Very High or High Conservation Value road in Council’s Roadside Management Strategy; or</li> <li>(b) a prohibited road in accordance with clause 6.11.</li> </ul>
<b>“property”</b>	means a piece of land that is owned by a person or corporation, including all improvements thereon.
<b>“public place”</b>	has the same meaning as section 3 of the <i>Summary Offences Act 1966</i> .
<b>“recreational vehicle”</b>	means a wheeled recreational device and any motor vehicle that is used or intended to be used in a public place and includes a trail bike, mini bike, motor scooter, motor driven go-cart, monkey bike and any other vehicle propelled by a motor which is used for recreational purposes but does not include a wheelchair, wheeled toy or a motorised vehicle used for farming purposes..

<b>“refuse container”</b>	means a lidded container for the temporary containment of refuse or waste and includes a bulk refuse container.
<b>“reservation”</b>	means anything constructed or located on a road which divides the road longitudinally, and includes a naturestrip but excludes a line or series of lines marked on a road.
<b>“reserve”</b>	means any land, water, waterway or water course either owned by or vested in, or under the control and management of the Council, and used or set aside as a reserve, whether for outdoor cultural, environmental, recreational or other purposes, including any artworks, public decorations, other public displays and any structures other than a building, erected upon or situated at these places including any waterway, but excludes a Road.
<b>“residential area”</b>	means all land zoned Residential, Township, and Low Density Residential under a Planning Scheme in force in the municipal district.
<b>“road”</b>	means a street, road, highway, lane, bridge, thoroughfare or other place open to or used by the public for passage with vehicles, and includes every public car-park, bus shelter, carriageway, footpath, traffic island, street, gutter, drain and nature strip, and includes a mall but does not include a private road, right of way, passage or driveway which is not open to the public.
<b>“roads corporation”</b>	means the Roads Corporation established under the <i>Transport Integration Act 2010</i> .
<b>“sealed container”</b>	means a container sealed at the point of manufacture.
<b>“shopping trolley”</b>	means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods.
<b>“stormwater”</b>	means rainwater which is discharged from land, roads or buildings through a drain.
<b>“stormwater system”</b>	means a system which provides for stormwater runoff including kerbs and channels, open channels, underground pipe systems and natural waterways.
<b>“temporary vehicle crossing”</b>	means a constructed form of wooden panels or other Council approved structure over a bed of sand or a reservation that extends from the boundary of land over any Council asset, such as footpaths, nature strips, kerbs and channels of a road.

<b>“unsightly”</b>	means a state or condition characterised by the presence of one or more of the following features or similar features of a property: <ul style="list-style-type: none"> <li>(a) excessive unconstrained rubbish such as paper, cardboard, plastic bags, styrene, domestic garbage, second hand containers; and/or</li> <li>(b) excessive second hand timber or second hand building material; and/or</li> <li>(c) discarded, rejected, surplus or abandoned solid or liquid materials; and/or</li> <li>(d) graffiti on exterior walls or fences; and/or</li> <li>(e) excessive machinery, machinery parts or similar; and/or</li> <li>(f) anything being built which is left incomplete and constitutes a detriment to the appearance of the surrounding area; and/or</li> <li>(g) excessive dead, diseased or dying vegetation; and/or</li> <li>(h) excessively long grass and/or weeds; and/or</li> <li>(i) a disused excavation; and/or</li> <li>(j) a building or other structure or thing which is a detriment to the appearance or amenity of the surrounding area; and/or</li> <li>(k) any other thing making the land visually repugnant but excludes an enclosed building or structure on the land which complies with regulations made under the <i>Building Act 1993</i> or <i>Planning and Environment Act 1987</i>.</li> </ul>
<b>“vegetation”</b>	has the same meaning as defined by the <i>Country Fire Authority Act 1958</i> .
<b>“vehicle”</b>	has the same meaning as in section 3 of the <i>Road Safety Act 1986</i> .
<b>“vehicle crossing”</b>	means a Council approved properly constructed surface for vehicular access to land or a building site.
<b>“wheeled recreational device”</b>	has the same meaning as in the <i>Road Safety Road Rules 2017</i> .
<b>“wheeled toy”</b>	has the same meaning as in the <i>Road Safety Road Rules 2017</i> .
<b>“windblown refuse”</b>	means any refuse capable of being blown away by wind.

**1.7 Powers and functions**

In exercising its powers and functions under this Local Law, Council may have regard to any guidelines, policies, codes or standards it, or other agencies or organisations have adopted for the purpose of the Local Law.

**1.8 Reference**

Wherever in this Local Law any reference is made to legislation or subordinate legislation, it includes any subsequent equivalent consolidation, re-enactment or substitute legislation or sub-ordinate legislation.

**PART 2 – PROTECTION OF AMENITY OF MUNICIPAL DISTRICT****2.1 Unsightly or Dangerous Land**

- (a) A person who owns or occupies property, must not allow or permit such property to be kept in a manner that is unsightly or detrimental to the general amenity of the neighbourhood, is out of character with other Allotments in the vicinity, or dangerous or likely to cause danger to life or property, including property that is:
- (i) unsightly;
  - (ii) a haven for vermin, insects or excessive vegetation;
  - (iii) used for the storage of any goods and/or substances which are dangerous or are likely to cause danger to life or property; and/or
  - (iv) contains structures or buildings that are in poor repair and/or in a state of neglect;

**2.2 Storage of Machinery or Second-Hand Goods**

- (a) A person must not, without a permit, use property in a residential area for the:
- (i) storage of old or second-hand:
    - (i) motor vehicles;
    - (ii) machinery;
    - (iii) materials;
  - (ii) dismantling or breaking up of motor vehicles or machinery; or
  - (iii) repair, servicing, panel beating or spray painting of any vehicle other than a vehicle which is registered at that address.
- (b) A person must not, without a permit, leave or allow to remain on any property a disused refrigerator, ice-chest, ice-box, trunk, chest, or any other similar article without first:
- (i) removing every door and lid; or
  - (ii) rendering every door and lid incapable of being fastened.

### 2.3 Fires

- (a) A person must not, without a permit, on property in a residential area or commercial area, light or allow to be lit or to remain alight any fire or incinerator, save and except:
- (i) a fire in a barbeque while being used for the purpose of cooking food;
  - (ii) a fire in a chimanea, potbelly stove, or small open fires in a suitable container for heating, cooking, cultural or social purposes, which is not offensive;
  - (iii) a fire generated by a tool of trade while being used for the purpose for which it was designed;
  - (iv) a fire contained within a properly constructed fireplace within a dwelling for the purpose of heating;
  - (v) a fire lit by a member of the Country Fire Authority in the course of his or her duty or a member of the public who holds a permit under the provisions of the *Country Fire Authority Act 1958*.
- (b) On any Council land it is an offence for a person without a permit to light and maintain any campfire or barbeque using solid fuel unless in a Council installed barbecue.

### 2.4 Burning of Offensive Materials

A person must not, without a permit, burn or cause to be burned any offensive materials including any substance which contains any:

- (a) manufactured chemical;
- (b) rubber or plastic;
- (c) petroleum or oil;
- (d) paint or receptacle which contains or contained paint;
- (e) food waste; or
- (f) mattress or carpet;

unless in accordance with a licence issued by the Environment Protection Authority or a permit issued by Council.

### 2.5 Fire to be Extinguished

A person who has lit or allowed a fire to be lit or remain alight, or has burned or caused or permitted to be burned, contrary to clause 0 or 2.4 must extinguish the fire or burning materials immediately on being directed to do so by an authorised officer.

## 2.6 Trees and Plants

- (a) A person must not, on any land which they own or occupy, permit any vegetation growing on that land, or any sign, structure or other thing located on that land to obstruct or interfere with:
- (i) the passage of traffic on a road;
  - (ii) the clear view of any driver or pedestrian lawfully using a road of any other vehicle, pedestrian or traffic control device upon a road;
  - (iii) the view between motor vehicles and trains at a railway level crossing; or
  - (iv) street lighting or any traffic control signal or sign;
- (b) to otherwise constitute a danger to vehicles or pedestrians or compromise the safe or convenient use of an abutting road;
- (c) to overhang any footpath or road at a height lower than 3.5 metres from the surface of the footpath or road; or
- (d) to accumulate dropped berries, leaves or other materials on a footpath so as to cause obstruction or danger to any pedestrian.

## 2.7 Pest Control

- (a) An authorised officer may direct an owner or occupier of any land to take such action as is required to eradicate or remove any vermin, pests or insects from the land if the vermin, pests or insects constitute a danger or are detrimental to the amenity of the surrounding area. To assist in the prevention of fruit fly infestation, each owner and occupier of residential land must:
- (i) prevent fruit that is a host species for fruit flies, from remaining on the ground of the land;
  - (ii) when disposing of such fruit, seal the fruit in a plastic bag and place it in a rubbish bin; and
  - (iii) prune and maintain any fruit trees on the land.

## 2.8 Noise

- (a) A person must not, on any land which they own or occupy, permit any noise or nuisance which:
- (i) interferes with the reasonable comfort of any person; or
  - (ii) in the case of noise is annoying, objectionable, or unreasonable.
- (b) Nothing in this clause applies to any noise to which the *Environment Protection Act 1970* or the *Domestic Animals Act 1994* applies.

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**2.9 Recreational Vehicles**

- (a) A person must not use or ride any recreational vehicle on any footway or public place (other than a road) unless in an area designated by Council with erected signage advising that such activity is permitted.
- (a) An authorised officer may impound any recreational vehicle if any person using a recreational vehicle contrary to this clause 2.9 fails to cease the practice when directed to do so.

**2.10 Behaviour**

- (a) A person must not, whether by language, action, or otherwise, behave in a public place in such a manner as to:
  - (i) interfere with another person's reasonable use and enjoyment of that public place; or
  - (ii) endanger, or be likely to endanger, health, life or property;
- (b) Any such behaviour may include:
  - (i) fighting;
  - (ii) vomiting;
  - (iii) urinating;
  - (iv) defecating;
  - (v) spitting;
  - (vi) offensive, abusive or threatening language clearly directed towards any person; or
  - (vii) otherwise behaving in an offensive manner.

**2.11 Horses on Public Places**

A person must not, without a permit, ride or lead a horse or cause or authorise another person to ride or lead a horse on any Council land unless it has been designated and signposted by Council as being available for horses or horse riding.

**2.12 Camping**

- (a) A person must not, without a permit, camp on any Council land, on a public place, or on any privately owned land within the municipality except within a designated camping area.
- (b) A person who camps or who occupies a campsite on Council land or in a public place must at all times maintain the campsite in a clean and tidy condition.

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- (c) A person is exempt from the requirement of a permit under clause (a) above if, in relation to privately owned land:
  - (i) camping is in connection with the seasonal employment of that person on a property on which an agricultural business is being conducted and provided the person has the permission of the owner to camp on that land; or
  - (ii) camping is for no more than 14 days within any 90 day period, with no more than 10 people at any one time, and the persons have the permission of the owner to camp on that land.

### **2.13 Interference with Drains or Drainage Works**

A person must not, without a permit:

- (a) destroy, damage, obstruct, alter, remove or in any way interfere with;
  - (b) obstruct, divert, add to or in any way interfere with the passage of water through; and/or
  - (c) take, use or pollute the water in;
- any drain or drainage works.

**PART 3 – PUBLIC PLACES****3.1 Bulk Refuse Containers/Clothing Bins**

A person must not, without a permit, place a bulk refuse container or clothing bin in a public place.

**3.2 Shipping Containers**

A person must not, without a permit:

- (a) keep, store, repair or in any other manner use any shipping container upon any Council land or a road; or
- (b) allow any shipping container upon any land other than Council land or a road to adversely impact the visual amenity of a neighbourhood.

**3.3 Public Places, Roads and Council Land – Works and/or Usage**

(a) A person must not, without a permit:

- (i) erect or construct any building, undertake any building work, or deposit any rubbish, refuse or obstacle on or in a public place;
- (ii) exclusively occupy or fence off any road or Council land;
- (iii) plant a tree, shrub, hedge or other vegetation (except for lawn on a naturestrip) in a public place;
- (iv) remove anything from any road or Council land;
- (v) allow mud, clay, debris or material to be deposited on any part of a road or on Council land;
- (vi) busk on any road or council land with the object, or apparent object, of collecting money;
- (vii) damage or interfere with anything in, on or under a public place; or
- (viii) remove forest produce or firewood from a road or Council land.

- (b) Clause (a) does not apply to the placement of receptacles for household refuse or recyclable materials provided they are removed before 12 noon the day following collection, or receptacles for other refuse for which arrangements have been made with Council for collection.

- (c) A person must not, in a public place:
  - (i) interfere with another person's reasonable use and enjoyment of that public place;
  - (ii) endanger or behave in a way likely to endanger health, life or property; or
  - (iii) enter onto any area, road or track upon which entry is prohibited.

### 3.4 Naturestrips

An owner or occupier of a property adjacent to a naturestrip must:

- (a) not without approval in writing from an authorised officer plant a tree, shrub, hedge or other vegetation on a naturestrip in a public place unless:
  - (i) the tree, shrub, hedge or other vegetation is planted in accordance with Council's nature strip guidelines; and
  - (ii) a permit (if required) under the *Road Management Act 2004* has been obtained from Council to work within a road reserve;
- (b) not, without approval in writing from an authorised officer, place or cause to be placed any item which may cause a public safety issue including large rocks, timber, structures, trip hazards, retaining walls, stakes, irrigation systems, posts; and
- (c) maintain the naturestrip and all plants on the naturestrip
  - (i) to avoid public safety risks; and
  - (ii) so the footpath is clear for pedestrians.

### 3.5 Access from Public Place

- (a) A person must not, without a permit, drive a vehicle in a public place other than a road.
- (b) Without limiting clause (a) above, where land adjoins or is adjacent or nearby to a public place, a person must not, without a permit:
  - (i) use; or
  - (ii) allow a person, including a tradesman, supplier or contractor requiring access to property owned by the person, to use;

the public place for vehicular access to that land other than by use of the carriageway of a road or a vehicle crossing formed, constructed or otherwise approved by the Council for motor vehicles.

- (c) This clause does not apply to emergency vehicles and vehicles owned by or operated on behalf of Council or any other public body in the course of fulfilling its functions and duties.

### **3.6 Storage of Private Property on Roads**

A person must not, without a permit, store or abandon any chattels, plant, equipment, wood or vehicles on any part of a road or public place.

### **3.7 Damage to Council Property**

A person must not, without a permit, or otherwise in accordance with this Local Law, deface, damage, remove or interfere with any Council asset, including:

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

**PART 4 – ROADS AND FOOTPATHS****4.1 Servicing of Vehicles on Roads**

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

**4.2 Trading of Goods or Services**

- (a) A person must not, without a permit, on any road or Council land:
  - (i) erect or place a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling or offering for sale any goods or services; and/or
  - (ii) sell or offer to sell goods or services.
- (b) A person must not, without a permit, display a vehicle for sale on Council land.

**4.3 Display on Council Land**

A person must not, without a permit, place or cause to be placed on a road or Council land any structure, sign, table, chair or goods for display.

**4.4 Street Appeals**

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

**4.5 Distribution of Handbills**

A person must not, without a permit, give out or distribute to by-standers or passers-by on any road or Council land, any handbills, placards, notices, advertisements, books, papers or pamphlets.

**4.6 Shopping Trolleys**

- (a) A person must not leave a shopping trolley on any road or Council land in any place other than an area designated for that purpose.
- (b) The owner of a shopping trolley must ensure that details sufficient to enable identification of ownership of the shopping trolley are clearly marked on the shopping trolley.
- (c) The owner of a shopping trolley must not allow the shopping trolley to be left in a public place except in an area designated for the leaving of shopping trolleys

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**4.7 Discharge of Water Prohibited**

A person must not, without a permit or contrary to the conditions of the permit, cause or allow:

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

**PART 5 – BUILDING SITES****5.1 Stormwater Protection**

Where any building work is being carried out on any land, the owner, builder and person undertaking building work must ensure that the building site is developed and managed to prevent stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants. This includes, without limiting the above, the adoption of measures to:

- (a) prevent any mud, dirt, sand, soil or stones being washed into the stormwater system; and
- (b) prevent building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the stormwater system.

**5.2 Building Work**

- (a) The owner, builder and person undertaking building work and the operator of any vehicle associated with the building work must not allow mud, clay, debris or material to be deposited on any part of a road or in a public place without the approval of Council or an authorised officer.
- (b) The owner, builder or person undertaking building work, regardless of whether a building permit has been issued, must notify Council in writing at least 7 days before the commencement of the building work, including the delivery of any equipment or materials, of the proposed building work and of any prior damage to adjacent Council assets. If no notice of prior damage is given in accordance with this clause (b), it will be assumed that no prior damage existed and clause (c) may apply in relation to any damage later identified by Council.
- (c) Any person undertaking building work must not damage Council assets or other infrastructure without the consent of Council or the appropriate infrastructure authority and must repair or reinstate any such assets.
- (d) The owner, builder and person undertaking building work must ensure that no entry to the building site takes place other than across an existing or a temporary vehicle crossing unless there is no constructed kerb and channel at any such entry point.

### 5.3 Sanitary Facilities

- (a) No person will undertake, or allow to be undertaken, building work on a building site unless the building site is provided with a sewered toilet or a portable toilet.
- (b) The builder must remove any portable toilet on the building site on the completion of the building work.
- (c) The owner must ensure that any portable toilet on the building site is maintained and regularly clean.
- (d) No person will discharge any sewage, effluent or other waste onto or from the building site and must dispose of all such waste at a site fully accredited and approved for such waste.

### 5.4 Containment of Refuse

- (a) Where any building work is being carried out on any land (other than minor building work), the builder must:
  - (i) only undertake, or allow to be undertaken, building work if a refuse container is provided for the purpose of disposal of builder's refuse;
  - (ii) ensure all builder's refuse on the building site is able to be contained within the refuse container;
  - (iii) place the refuse container on the building site and keep it in place (except for such periods as are necessary to empty the refuse container) for the duration of the building work;
  - (iv) not place a bulk refuse container on any Council land or public place without a permit;
  - (v) ensure that all builder's refuse which requires containment is placed in a refuse container;
  - (vi) ensure that builder's refuse is not deposited in or on any land other than in accordance with this clause;
  - (vii) ensure that builder's refuse is not deposited in or over any part of the stormwater system;
  - (viii) manage the placement and operation of the refuse container;
  - (ix) ensure that all windblown refuse is placed in a refuse container; and
  - (x) provide for the separation of refuse as may be required from time to time by Council or the Environment Protection Authority for the purposes of recycling.

- (b) The requirement to provide a refuse container referred to in clause (a) may be waived at Council's discretion.

#### 5.5 Disposal of Refuse

- (a) Where any building work is being carried out on any land (other than minor building work), the builder must ensure that:
  - (i) the refuse container referred to in clause 5.4(a) is emptied whenever full, the contents are disposed of at an approved disposal site and, if necessary, a replacement refuse container is provided during the emptying process; and
  - (ii) all builder's refuse is removed and lawfully disposed of within 7 days of completion of the building work or issue of an occupancy permit, whichever occurs last.
- (b) The driver of any vehicle involved in placing or removing a refuse container referred to in clause 5.4(a) must access the building site by way of an existing or a temporary vehicle crossing, or where otherwise permitted by an authorised officer in accordance with that permission, or as otherwise provided in clause 5.2(d).

#### 5.6 Asset Protection Permits

- (a) For the protection of Council assets wherever they are requiring protection, or if there is potential danger to the safety of persons on, adjacent to, opposite, or passing a building site, the builder must obtain an Asset Protection Permit prior to carrying out any building work, or allowing any building work to be carried out, on that land.
- (b) An Asset Protection Permit may allow a person to enter land from a road other than by a permanently constructed vehicle crossing whether or not Council assets are likely to be damaged.
- (c) The Asset Protection Permit may be subject to such conditions as determined by Council or an authorised officer which may require:
  - (i) asset and environment protection works to be done;
  - (ii) payment of a security bond;
  - (iii) erection of temporary fencing;
  - (iv) repair, replacement or reinstatement of any or all Council asset damaged during the course of the building work;
  - (v) installation of any temporary vehicle crossing before the commencement of any building works or delivery of any materials to the land;
  - (vi) excavation, demolition, construction, replacement and reinstatement standards to be met;

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- (vii) the fixing of timeframes for the commencement and completion of any excavation, demolition, construction, replacement and reinstatement works; and
- (viii) the carrying out of any works to minimise public risk.

#### 5.7 Security Bond

- (a) The amount of any security bond required under clause 5.6(c)(ii) must be proportionate to the likely costs of repairing any potential damage to any Council asset arising from the building works.
- (b) Where Council so determines, it may accept an alternative form of security to a security bond.
- (c) Upon completion of the building works, the amount of the security bond, in full or in part:
  - (i) may be retained by Council in full or in part to offset the costs of repairing any damage or replacing any Council asset damaged, destroyed or removed; or
  - (ii) may be refunded to the person who lodged it, upon Council's satisfaction that no damage has been caused, or that any damage caused has been repaired by or on behalf of that person to Council's satisfaction.

#### 5.8 Inspections

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

**PART 6 – KEEPING OF ANIMALS, BIRDS AND POULTRY****6.1 Keeping Animals**

- (a) An owner or occupier of any land must not keep any bird, livestock, or any other animal on that land unless each is kept in accordance with the relevant Code of Practice.
- (b) An owner or occupier of any land must not, without a permit keep or allow to be kept any more in number, for each type of Animal, than is set out in the Table of Animal Types and Numbers in this clause.
- (i) Note; Poultry, Large and/or Noisy birds, Pigeons and/or Domestic Birds, the animals must be kept in accordance with relevant clauses of this Local Law.

**Table of Animal Types and Numbers**

Type Of Animal	In Flats, Units Or Townhouses	On land that is in a residential area or commercial area	On land of less than 2 hectares in a farming zone <sup>34</sup>
Dog	2	2	4
Cat	2	2	4
Poultry (excluding Roosters)	0	10	20
Roosters	0	0	5
Large and/or Noisy Birds (not including poultry or roosters)	0	0	10
Pigeons	0	5	20
Domestic birds (caged, excluding Large and/or Noisy Birds)	4	20	In accordance with a Planning Scheme in force in the municipal district
Maximum total number of all birds	4	20	In accordance with a Planning Scheme in force in the municipal district
Domestic Rabbits, Guinea Pigs	2	4	In accordance with a Planning Scheme in force in the municipal district
Horses and donkeys	0	0	5

<sup>3</sup> 0.4 hectares = 0.99 acres 2 hectares = 4.94 acres

<sup>4</sup> Animal numbers on any private property or land exceeding 2 hectares are subject to restrictions applicable under the Planning Scheme.

Type Of Animal	In Flats, Units Or Townhouses	On land that is in a residential area or commercial area	On land of less than 2 hectares in a farming zone <sup>34</sup>
Cattle	0	0	5
Sheep, goats and alpacas	0	0	5
Pigs	0	0	5
Any other Livestock	0	0	5
Maximum total number of all livestock (excluding birds)	0	0	10

- (c) A permit is required to keep or allow to be kept any animal not listed in sub-clause (b).<sup>5</sup>
- (d) For the purpose of calculating the numbers of any animal kept under this clause, the progeny of any animal lawfully kept will be counted from 12 weeks after its birth.
- (e) Where at the date immediately prior to the day of the commencement of this Local Law any owner or occupier of land lawfully keeps a number of animals in excess of the new maximum number or type of animals prescribed by sub-clause (b), and those animals, where required, are registered with Council:
- (i) that maximum number will be increased for that owner or occupier to include those previously lawful animals, but only until that time when those individual animals in excess of the new maximum die or are otherwise disposed of; and
  - (ii) for roosters, the time period referred to in this clause cannot exceed two years from the commencement date of this Local Law; and
  - (iii) those excess animals may not be replaced, unless by permit.
- (f) A person must not allow to remain on any land any noisy animal, bird, or poultry such as to cause a nuisance to any person residing in the neighbourhood.

## 6.2 Housing of Poultry and Other Birds

- (a) Poultry and other birds shall not, without a permit, be kept in any residential or commercial area or on land of less than 2 hectares in a farming zone, other than in a poultry house, pigeon loft or bird enclosure which is:
- (i) at least 20m from the property frontage;
  - (ii) at least 3m from any other street or road; and

<sup>5</sup> Note: Nothing in this Local Law will enable the granting of approval for keeping of any animal where State or Commonwealth legislation provides otherwise.

- (iii) at least 12m from any dwelling whether on the same or adjoining property, and an enclosed run attached to a poultry house must also comply with this requirement.
- (b) Pigeons shall not be kept on any land unless in a pigeon loft constructed to Council's requirements.
- (c) A poultry house shall consist of a minimum floor area of five square metres to house ten poultry.
- (d) An owner or occupier of land on which a poultry house is located must ensure that it has:
  - (i) a location on ground which is well drained; and
  - (ii) weatherproof walls of approved materials, provided that wire netting may be used in a portion of one wall; and
  - (iii) a weatherproof roof of approved materials; and
  - (iv) a wall height of not more than 2.1 metres.
- (e) The provisions of this Part referring to poultry shall not apply to any commercial poultry farm.

### 6.3 Bees

- (a) A person must not, without a permit, keep or allow to be kept:
  - (i) any bees on a road; or
  - (ii) any bees on Council land.
- (b) An authorised officer may direct a person to relocate a bee-hive.

### 6.4 Cleanliness

- (a) The owner or occupier of any land shall cause every poultry house, pigeon loft, bird cage or enclosure, to be thoroughly cleansed as often as may be necessary to keep the same in a clean and sanitary condition and free from vermin at all times.
- (b) Droppings and refuse from any animal, bird or poultry shall be removed from the land from time to time and as frequently as may be directed by an authorised officer so as not to cause a nuisance or offensive conditions.

**6.5 Animal Excrement**

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

**6.6 Disposal of Livestock**

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

**6.7 Droving of Livestock**

A person must not drive livestock on any road without a permit.

**6.8 Grazing of Livestock**

A person must not graze livestock on any road without a permit.

**6.9 Movement of Livestock**

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

- (a) ensure all livestock shall reach their destination by the most direct route consistent with the requirements of this Local Law and any direction of an authorised officer;
- (b) ensure livestock are only to be on the road for the time it reasonably takes to move them to their destination;
- (c) ensure, as far as possible, the livestock are moved during daylight hours;
- (d) comply with any direction from an authorised officer with regard to:
  - (i) the route to be followed; and
  - (ii) the protection from damage likely to be caused by livestock to the road, native roadside vegetation, any construction on the road, roadside drainage or private property;
- (e) ensure the livestock are supervised and under effective control by a person who is competent in the management of livestock;

- (f) ensure any livestock excretion, mud or other debris deposits on the road pavement are removed if required by an authorised officer for prevention of danger to other road users; and
- (g) comply with;
  - (i) other legislation, including the *Impounding of Livestock Act 1994*; and
  - (ii) all the requirements of the guidelines prepared by the Roads Corporation and referred to in the *Road Safety Road Rules 2017*.

#### **6.10 Non Application of Clause**

The provisions of clauses 6.7 to 6.9 do not apply to:

- (a) livestock being transported by vehicle or other means in circumstances where there is no contact between the livestock and the road; or
- (b) a horse being ridden or led by some attachment.

#### **6.11 Prohibited Roads**

- (a) Council may specify roads or parts of roads as prohibited roads.
- (b) A person must not, without a permit, drive, move or graze livestock on a prohibited road.

#### **6.12 Responsibility of Owners or Occupiers**

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

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

#### **6.13 Right of Way**

- (a) Travelling livestock (being livestock being driven in accordance with a valid permit) have right of way over other livestock on the road.
- (b) If a person responsible for livestock on a road is notified of the approach of travelling livestock, the person must remove the livestock for which he or she is responsible to an adjoining location or keep them separate from the travelling livestock by means suitable for the purpose.

**6.14 Warning Signs**

- (a) A person involved in droving, movement or grazing of livestock must ensure that adequate warning of the presence of livestock on the road is given to other road users or potential road users.
- (b) Apart from any other warnings considered appropriate by the person engaged in such activities under sub-clause (a), such person must display signs conforming to guidelines prepared by the Roads Corporation and referred to in the *Road Safety Road Rules 2017*.
- (c) A person involved in droving, movement or grazing of livestock must ensure that any signs referred to in sub-clause (b) are removed from the road at the time of completing such droving, movement or grazing of livestock.
- (d) In addition to complying with any permit or other conditions relating to warning signs to other road users, lighting requirements and the location, size, contents and colour of such devices, the person in charge of livestock must have regard to:
  - (i) any Australian Standards for such purposes;
  - (ii) any other signage necessary for road safety having regard to topography, conditions, livestock type and numbers; and
  - (iii) any other requirements of the Roads Corporation.

**PART 7 – WASTE****7.1 Security of Mobile Waste Bins**

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

**7.2 Use of Mobile Waste Bins**

- (a) Except for the purpose of placing a mobile waste bin on a road for its contents to be collected by or on behalf of Council, a person must not remove a mobile waste bin from the land to which it has been allocated by or on behalf of Council, except in accordance with a direction from an authorised officer.
- (b) A person must not use a mobile waste bin for any purpose other than the storage and disposal of waste material in accordance with a direction given by Council from time to time.
- (c) Any person who is in possession of a mobile waste bin which is not at the property to which it has been allocated by Council must notify Council in writing of the location of the mobile waste bin and make it available for retrieval by Council in accordance with any direction of Council.
- (d) An authorised officer may enter any land or building in the municipal district at any reasonable time to retrieve any mobile waste bin which is present, or being used, on the land or in the building in breach of this clause 7.2.

**PART 8 – USE OF SIGNS****8.1 Official Signs**

- (a) Council may construct, make, mark, place, erect, affix or paint in, into, on or near a public place such official signs as it considers necessary or desirable.
- (b) When appearing in any official sign, words, figures or symbols indicating specified hours, times or days shall mean that the direction or indication given by such sign applies at any time during the hours, times or days indicated by the words, figures or symbols.
- (c) Any matter forming part of any indication or direction given by an official sign may be stated thereon in an abbreviated form.
- (d) A person shall not act in a manner contrary to the direction or indication given by an official sign.

**PART 9 – CONSUMPTION AND POSSESSION OF LIQUOR****9.1 Consumption of Liquor**

- (a) A person must not, without a permit:
- (i) on a road;
  - (ii) in or at a public place;
  - (iii) in or on a vehicle at any of these locations,  
consume any liquor, or have any liquor in their possession or under their control, other than in a sealed container, unless the road or public place is part of a licensed premises or authorised premises pursuant to the *Liquor Control Reform Act 1998*.
- (b) The consumption of liquor or possession of liquor in an unsealed container may be permitted in a public place proclaimed by resolution of Council from time to time.

**9.2 Power to Direct**

- (a) If an authorised officer reasonably suspects that a person is in contravention of or has contravened clause 9.1, he or she may direct the person to dispose of the contents of any unsealed container.
- (b) A person to whom a direction is given under this clause 9.2 must comply with that direction.

**PART 10 – EVENTS****10.1 Event**

- (a) A person must not, without a permit, conduct an event on any Council land, road or reserve.
- (b) An application for a permit to conduct an event must provide such information as Council or an authorised officer requires, which may include, as relevant:
  - (i) a description of the event;
  - (ii) event operations and management plans;
  - (iii) proof that all necessary associated approvals (eg liquor licences, Victoria Police and traffic management) have been obtained; and
  - (iv) in the case of a parade or procession on a road or roads, the specific route that will be followed.
- (c) The person applying for a permit must provide all particulars of the permit to the local emergency services.
- (d) A procession of persons or vehicles coordinated for the purposes of a funeral is exempt from the requirement for a permit.
- (e) This clause 10.1 does not apply to social gatherings on Council land or a reserve unless the social gathering is of a size or a nature that prevents other members of the public from accessing or using an area of Council land or reserve.

**PART 11 – GENERAL****11.1 Permits**

- (a) A person requiring a permit to do anything under this Local Law must make written application to Council and enclose the relevant permit fee.
- (b) Any fee which is payable for a permit is to be determined by Council from time to time.
- (c) Council may exempt any person or any activity from the need for a permit.
- (d) Council or an authorised officer may require:
  - (i) the applicant to provide more information before it deals with an application; and
  - (ii) payment of a security bond.
- (e) In considering an application for a permit, Council or an authorised officer may require the applicant to give notice of the application in a specified form and may take into consideration any response to that notice, any policy or guidelines, any objections or submissions, any comments from other authorities, government departments or community organisations, and any other matter that is considered relevant.
- (f) Council or an authorised officer shall consider any such application and may:
  - (i) grant a permit;
  - (ii) grant a permit subject to such conditions as Council or the authorised officer determines; or
  - (iii) refuse to grant a permit.
- (g) A person must not obtain or attempt to obtain a permit by wilfully making or causing to be made any false representation or declaration whether orally or in writing.
- (h) Any permit issued under this Local Law may be amended, suspended or revoked at any time if Council or an authorised officer considers that there has been:
  - (i) a material misstatement or concealment of facts in relation to the application for a permit;
  - (ii) any material mistake in relation to the issue of the permit;
  - (iii) any material change of circumstances which has occurred since the issue of the permit;

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- (iv) a failure to comply with the conditions under which the permit was issued; or
- (v) a failure to comply with a notice to comply within the time specified in the notice to comply.
- (i) Council or an authorised officer must notify the holder of a permit of any intention to amend or revoke the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or revoked.
- (j) Unless it is sooner revoked or renewed, a permit will continue in force for the period specified in the permit or, if no period is specified, for a period of 12 months from the date of its issue or renewal.
- (k) A permit holder must not assign, transfer or encumber his or her permit without the consent of Council or an authorised officer.
- (l) Council may correct any permit issued under this Local Law if the permit contains a clerical error, an error arising from an accidental slip or omission, or an evident and material miscalculation of figures or a material mistake in the description of a person, thing or property referred to in the permit without prior notice to the permit holder.
- (m) A person to whom a permit is granted must comply with that permit, including any conditions to which it is subject.

#### **11.2 Powers of Authorised Officers**

An authorised officer, on becoming aware of a situation or activity which breaches this Local Law or may be reasonably suspected to breach this Local Law, may:

- (a) give a verbal or written direction to do such things as are necessary to remedy that situation and/or cease the activity;
- (b) issue a Notice to Comply;
- (c) issue an infringement notice; and/or
- (d) commence a prosecution.

#### **11.3 Directive powers**

A person who fails to comply with a verbal or written direction by an authorised officer to remedy a situation or cease an activity which is contrary to this Local Law is guilty of an offence.

#### **11.4 Notice to Comply**

- (a) Council or an authorised officer may, by serving a notice to comply, direct any owner, occupier or other relevant person to remedy anything which constitutes a breach of this Local Law.

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- (b) A notice to comply served in accordance with this Local Law must state the date by which the breach must be remedied.
- (c) The time required by a notice to comply served under this Local Law 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:
  - (i) the amount of work involved;
  - (ii) the degree of difficulty;
  - (iii) the availability of necessary materials or other necessary items;
  - (iv) climatic conditions;
  - (v) the degree of risk or potential risk; and
  - (vi) any other relevant matter.
- (d) A person who fails to remedy a breach in accordance with a notice to comply within the time specified is guilty of an offence under this Local Law.
- (e) Nothing in this Local Law:
  - (i) obliges Council or an authorised officer to serve a notice to comply; or
  - (ii) precludes Council or an authorised officer from both serving a notice to comply and also serving an infringement notice or prosecuting for an offence.
- (f) If a person on whom a notice to comply is served under clause 11.2(b) fails to comply with it then, in addition to enforcing the prescribed penalty, Council may arrange to carry out such works as are necessary to ensure compliance and all costs incurred shall be at the expense of the person on whom the notice to comply was served.

#### **11.5 Power to Act in Urgent Circumstances**

- (a) An authorised officer may, where a person has failed to comply with any requirement of this Local Law or any permit or notice issued in accordance with the Local Law, take such immediate action as is necessary to prevent any danger to the public or environment, or any nuisance arising, provided that:
  - (i) the circumstances are sufficiently urgent or that the potential difficulty in serving a notice to comply may place a person, animal, land or the environment at risk;
  - (ii) the Chief Executive Officer or his/her delegate, not being the authorised officer administering this clause 11.5, approves of the proposed urgent action; and

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- (iii) details of the circumstances and of the remedial action taken are as soon as practicable forwarded to the person to whom the notice to comply has been issued.
- (b) Action under this clause 11.5 shall not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved.
- (c) Where possible, a notice of urgent works will be issued to the person responsible prior to remedial works being undertaken by Council, or as soon as possible thereafter.
- (d) Any costs incurred by Council in undertaking any urgent actions will be borne by the person to whom a notice of urgent works or a notice to comply has been issued.

#### **11.6 General Impoundment Conditions**

- (a) An authorised officer may seize and impound any goods, animals, birds, items or things that contravene this Local Law are in contravention of any condition placed on any permit issued under this Local Law or pose a risk to amenity, public safety, and the environment or to Council assets.
- (b) If an authorised officer has impounded an animal or other thing in accordance with this Local Law, Council may refuse to release it until the appropriate fee or charge for its release has been paid to Council.
- (c) Any release fee is to be determined by Council from time to time.
- (d) The costs and expenses of the seizure and impoundment of any item or thing shall be paid by the owner or person acting on behalf of the owner to Council and until so paid shall constitute a debt owing to Council and is recoverable summarily as a debt before the Magistrates' Court or in any other Court of competent jurisdiction.
- (e) As soon as possible after impoundment, the authorised officer will, if practicable, notify the owner or person responsible for the animal or other thing which has been impounded advising the fees and charges payable and time by which the animal or other thing must be retrieved.
- (f) If after 14 days from the date of impoundment, an impounded animal or other thing has not been retrieved, an authorised officer may take action to dispose of such impounded animal or other thing either by sale (public auction, public tender or private treaty), by disposal at a municipal landfill or transfer station or given away, as the Chief Executive Officer thinks fit.
- (g) When the identity or whereabouts of the owner or person responsible for the impounded animal or other thing is unknown, the authorised officer must take reasonable steps to ascertain the identity or whereabouts of that person and, once satisfied that all reasonable

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efforts have been made and the identity or whereabouts is still unknown, may proceed to dispose of the animal or other thing.

- (h) Any proceeds from the disposal of impounded animals or other things under this clause 11.6 will be paid to the owner except for the reasonable costs incurred by Council in impounding and disposing of the animal or other thing.
- (i) In the event that the owner cannot be identified or located within one (1) year of any animal or other thing under this clause 11.6, any proceeds as described in sub-clause (h) will be paid into the municipal fund.
- (j) A person must not, except with the authority of an authorised officer or pursuant to an order of a Court, remove, alter or interfere in any way with any animal or other thing seized or impounded by an authorised officer in the exercise of his or her powers, functions or duties under this Local Law.
- (k) Neither Council nor any authorised officer nor any officer, servant, agent or contractor of Council shall be liable to any person for any damage howsoever done or caused to, or for any loss sustained in respect of, any property seized and detained, sold, disposed of or destroyed pursuant to the provisions of this Local Law.
- (l) Notwithstanding anything herein contained, full responsibility for any damages caused as a result of any impoundment under this Local Law is to be borne by the owner or person responsible for the impounded animal or other thing.

#### **11.7 Offences in Respect of Motor Vehicles**

Owner onus applies in respect of any offence against this local law in relation to the use of a registered motor vehicle.

#### **11.8 Other Offences**

- (a) A person must not refuse or neglect to furnish information to an authorised officer when required under this Local Law to do so.
- (b) A person must not make an oral or written statement to an authorised officer discharging a function or duty under this Local Law knowing it to be false or misleading.

#### **11.9 Penalty**

Except where otherwise indicated, the penalty for breach of any provision of this Local Law is 20 penalty units.

**11.10 Infringement Notices**

- (a) As an alternative to prosecution an authorised officer may serve an infringement notice.
- (b) The fixed penalty for infringement notice purposes is the amount set out in Schedule 1 to this Local Law.
- (c) Payments for infringement notices are to be paid to Council in the manner prescribed on the infringement notice.

**11.11 Saving**

- (a) Nothing in this Local Law shall require a person to obtain or comply with a permit described in this Local Law if the thing in respect of which a permit is required is a thing allowed by a permit issued under an Act.
- (b) Council may exempt any person from the operation of this Local Law (or any provision contained in this Local Law) whether in whole or in part.

The Common Seal of the  
GREATER SHEPPARTON CITY COUNCIL was hereto affixed in the presence of –

.....  
CHIEF EXECUTIVE OFFICER

Resolution for the making of Local Law No. 1 was agreed to by Council on # date #.

Notice of the making of the Local Law was published in the Government Gazette on #  
date #.

**SCHEDULE 1 - PENALTIES FIXED FOR INFRINGEMENT NOTICES**

**Note:** Section 110 of the *Sentencing Act 1991* describes one penalty unit as \$100

Provision	Offence	Infringement Penalty (Penalty Units)
2.1	Unightly or Dangerous Land	4
2.2	Storage of Machinery or Second-Hand Goods	2
2.3	Fires	2
2.4	Burning of Offensive Materials	5
2.5	Fire to be Extinguished	5
2.6	Trees and Plants	2
2.7	Pest Control	2
2.8	Noise	2
2.9	Recreational Vehicle	2
2.10	Behaviour	2
2.11	Horses on Public Places	2
2.12	Camping	2
2.13	Interference with Drains or Drainage Works	2
3.1	Bulk Refuse Containers/Clothing Bins	2
3.2	Shipping Containers	2
3.3	Public Places, Roads and Council Land – Works and/or Usage	2
3.4	Naturestrips	2
3.5	Access from Public Place	2
3.6	Storage of Private Property On Roads	2
3.7	Damage to Council Property	2
4.1	Servicing of Vehicles on Roads	2
4.2	Trading of Goods or Services	2
4.3	Display on Council land	2
4.4	Street Appeals	2
4.5	Distribution of Handbills	2
4.6	Shopping Trolleys	1
4.7	Discharge of Water Prohibited	2
5.1	Stormwater Protection	2
5.2	Building Work	2
5.3	Sanitary Facilities	2
5.4	Containment of Refuse	2
5.5	Disposal of Refuse	2
5.6	Asset Protection Permits	5
6.1	Keeping Animals	2
6.2	Housing of Poultry and Other Birds	2
6.3	Bees	2
6.4	Cleanliness	2
6.5	Animal Excrement	2
6.6	Disposal of Livestock	2
6.7	Droving of Livestock	2
6.8	Grazing of Livestock	4
6.9	Movement of Livestock	4

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<b>Provision</b>	<b>Offence</b>	<b>Infringement Penalty (Penalty Units)</b>
6.11	Prohibited Roads	4
6.12	Responsibility of Owners or Occupiers of Farm Properties	2
6.13	Right of Way	2
6.14	Warning Signs	2
7.1	Security of Mobile Waste Bins	2
7.2	Use of Mobile Waste Bins	2
8.1	Act contrary to an official sign	2
9.1	Consumption of Liquor	2
9.2	Power to Direct	2
10.1	Event	2
11.1	Failure to comply with permit or permit conditions	2
11.3	Failure to comply with a direction	2
11.4(d)	Failure to comply with Notice to Comply	2
11.6(j)	Remove, alter or interfere with matter impounded	3
11.8(a)	Refuse or neglect to furnish information	3
11.8(b)	False or misleading statement	3

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