



## ORDINARY MEETING OF COUNCIL

Notice is hereby given of the  
Ordinary Meeting of Council to be held at  
Council Chamber, 15 Stead Street, Ballan on  
Wednesday 05 December 2018,  
commencing at 6:00 p.m.

### Members:

Cr. Paul Tatchell (Mayor)	Central Moorabool Ward
Cr. John Keogh (Deputy Mayor)	East Moorabool Ward
Cr. David Edwards	East Moorabool Ward
Cr. Tonia Dudzik	East Moorabool Ward
Cr. Jarrod Bingham	East Moorabool Ward
Cr. Tom Sullivan	West Moorabool Ward
Cr. Pat Toohey	Woodlands Ward

### Officers:

Mr. Derek Madden	Chief Executive Officer
Mr. Phil Jeffrey	General Manager Infrastructure
Mr. Satwinder Sandhu	General Manager Growth and Development
Mr. Danny Colgan	General Manager Social and Organisational Development

***Derek Madden***  
***Chief Executive Officer***

## AGENDA

<b>1.</b>	<b>OPENING OF MEETING AND PRAYER .....</b>	<b>4</b>
<b>2.</b>	<b>ACKNOWLEDGEMENT TO COUNTRY .....</b>	<b>4</b>
<b>3.</b>	<b>RECORDING OF MEETING .....</b>	<b>4</b>
<b>4.</b>	<b>PRESENT .....</b>	<b>4</b>
<b>5.</b>	<b>APOLOGIES .....</b>	<b>4</b>
<b>6.</b>	<b>CONFIRMATION OF MINUTES .....</b>	<b>4</b>
6.1	<i>Ordinary Meeting of Council – Wednesday 07 November 2018 &amp; Special Meeting of Council (Statutory and Annual Appointments) – Monday 26 November 2018 .....</i>	<b>4</b>
<b>7.</b>	<b>DISCLOSURE OF CONFLICT OF INTEREST .....</b>	<b>5</b>
<b>8.</b>	<b>PUBLIC QUESTION TIME.....</b>	<b>7</b>
<b>9.</b>	<b>PETITIONS .....</b>	<b>8</b>
<b>10.</b>	<b>PRESENTATIONS / DEPUTATIONS .....</b>	<b>9</b>
<b>11.</b>	<b>OFFICER’S REPORTS .....</b>	<b>10</b>
<b>11.1</b>	<b>CHIEF EXECUTIVE OFFICER.....</b>	<b>10</b>
<b>11.2</b>	<b>GROWTH AND DEVELOPMENT .....</b>	<b>11</b>
11.2.1	<i>Draft Community Local Law 2019 .....</i>	<b>11</b>
<b>11.3</b>	<b>SOCIAL AND ORGANISATIONAL DEVELOPMENT .....</b>	<b>152</b>
11.3.1	<i>Community Grants Program Round 2 .....</i>	<b>152</b>
11.3.2	<i>Instrument of Appointment and Authorisation of Council Officers under Section 147(4) of the Planning and Environment Act 1987 .....</i>	<b>167</b>
<b>11.4</b>	<b>INFRASTRUCTURE .....</b>	<b>173</b>
11.4.1	<i>Consideration of Rate Cap Variation for 2019/20 .....</i>	<b>173</b>
11.4.2	<i>Review of Property Rate Debt Management Policy.....</i>	<b>177</b>
<b>12.</b>	<b>OTHER REPORTS .....</b>	<b>195</b>
12.1	<i>Assembly of Councillors.....</i>	<b>195</b>
12.2	<i>Section 86 – Delegated Committees of Council – Reports.....</i>	<b>200</b>
12.3	<i>Advisory Committees of Council - Reports.....</i>	<b>201</b>
<b>13.</b>	<b>NOTICES OF MOTION .....</b>	<b>209</b>
13.1	<i>Cr. Edwards: N.O.M. No. 275 - Preparation of Concept Plan – Indoor Stadium on Taverner St Land .....</i>	<b>209</b>
13.2	<i>Cr. Bingham: N.O.M. No. 276 - Streaming of Council Meetings .....</i>	<b>210</b>
13.3	<i>Cr. Bingham: N.O.M. No. 277 - Inclusion of (in camera) Agenda Items in the Public Agenda.....</i>	<b>211</b>
<b>14.</b>	<b>MAYOR’S REPORT.....</b>	<b>212</b>
<b>15.</b>	<b>COUNCILLORS’ REPORTS.....</b>	<b>213</b>

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<b>16.</b>	<b>URGENT BUSINESS.....</b>	<b>214</b>
<b>17.</b>	<b>CLOSED SESSION OF THE MEETING TO THE PUBLIC.....</b>	<b>215</b>
17.1	<i>Confidential Report.....</i>	<i>216</i>
<b>18.</b>	<b>MEETING CLOSURE.....</b>	<b>217</b>

**1. OPENING OF MEETING AND PRAYER**

**Almighty God be with us as we work for the people of the Shire of Moorabool.  
Grant us wisdom that we may care for the Shire as true stewards of your creation.  
May we be aware of the great responsibilities placed upon us.  
Help us to be just in all our dealings and may our work prosper for the good of all.  
Amen.**

**2. ACKNOWLEDGEMENT TO COUNTRY**

**We respectfully acknowledge the traditional owners of this land, their spirits and ancestors.**

**3. RECORDING OF MEETING**

**In accordance with Moorabool Shire Council's Meeting Procedure Local Law, the Council will be recording this meeting. The following organisations have been granted permission to make an audio recording also:**

- **The Moorabool News; and**
- **The Star Weekly**

**4. PRESENT****5. APOLOGIES****6. CONFIRMATION OF MINUTES**

- 6.1 Ordinary Meeting of Council – Wednesday 07 November 2018 &  
Special Meeting of Council (Statutory and Annual Appointments) – Monday 26  
November 2018**

**Recommendation:**

**That Council confirms the Minutes of the Ordinary Meeting of Council held on Wednesday 07 November 2018, and the Minutes of the Special Meeting of Council (Statutory and Annual Appointments) held on Monday 26 November 2018.**

## 7. DISCLOSURE OF CONFLICT OF INTEREST

Under the Local Government Act (1989), the classification of the type of interest giving rise to a conflict is; a direct interest; or an indirect interest (section 77A and 77B). The type of indirect interest specified under Section 78, 78A, 78B, 78C or 78D of the Local Government Act 1989 set out the requirements of a Councillor or member of a Special Committee to disclose any conflicts of interest that the Councillor or member of a Special Committee may have in a matter being or likely to be considered at a meeting of the Council or Committee.

Definitions of the class of the interest are:

- a direct interest
  - (section 77A, 77B)
- an indirect interest (see below)
  - indirect interest by close association (section 78)
  - indirect financial interest (section 78A)
  - indirect interest because of conflicting duty (section 78B)
  - indirect interest because of receipt of gift(s) (section 78C)
  - indirect interest through civil proceedings (section 78D)
  - indirect interest because of impact on residential amenity (section 78E)

### Time for Disclosure of Conflicts of Interest

In addition to the Council protocol relating to disclosure at the beginning of the meeting, section 79 of the Local Government Act 1989 (the Act) requires a Councillor to disclose the details, classification and the nature of the conflict of interest immediately at the beginning of the meeting and/or before consideration or discussion of the Item.

Section 79(6) of the Act states:

While the matter is being considered or any vote is taken in relation to the matter, the Councillor or member of a special committee must:

- (a) leave the room and notify the Mayor or the Chairperson of the special committee that he or she is doing so; and
- (b) remain outside the room and any gallery or other area in view of hearing of the room.

The Councillor is to be notified by the Mayor or Chairperson of the special committee that he or she may return to the room after consideration of the matter and all votes on the matter.

There are important reasons for requiring this disclosure immediately before the relevant matter is considered.

- Firstly, members of the public might only be in attendance for part of a meeting and should be able to see that all matters are considered in an appropriately transparent manner.
- Secondly, if conflicts of interest are not disclosed immediately before an item there is a risk that a Councillor who arrives late to a meeting may fail to disclose their conflict of interest and be in breach of the Act.

## 8. PUBLIC QUESTION TIME

The aim of Public Question Time is to provide an opportunity for the public to ask general questions at Council Meetings requiring routine responses. Public Question Time is conducted in accordance with Section 6.9 of the Council's Meeting Procedure Local Law No. 9.

Questions must be in writing on the form provided by the Council and submitted by 5.00pm on the day before the meeting. Members of the public can contact a Councillor and raise a question which the Councillor will submit on their behalf.

A question will only be read to the meeting if the Chairperson or other person authorised for this purpose by the Chairperson has determined that:

- i) the person directing the question is present in the gallery;
- ii) the question does not relate to a matter of the type described in section 89(2) of the Act (for confidential matters);
- iii) the question does not relate to a matter in respect of which Council has no power to act;
- iv) the question is not defamatory, indecent, abusive or objectionable in language or substance;
- v) the question is not a repetition of a question already asked or answered (whether at the same or an earlier meeting); and
- vi) the question is not asked to embarrass a Councillor, member of Council staff or member of the public.

A Councillor or Council officer may:

- i) immediately answer the question asked; or
- ii) elect to have the question taken on notice until the next Ordinary meeting of Council; at which time the question must be answered and incorporated in the Agenda of the meeting under Public Question Time; or
- iii) elect to submit a written answer to the person asking the question within 10 working days.

Responses to public questions answered at the meeting, will be general in nature, provided in good faith and should not exceed two minutes. These responses will be summarised in the minutes of the meeting.

Public Question Time does not substitute for other forms of communication with or other formal business procedures of the Council.

**9. PETITIONS**

**No petitions have been made to Council for consideration as part of this Agenda.**



## 10. PRESENTATIONS / DEPUTATIONS

The Council has made provision in the business of the Ordinary Meetings of the Council for the making of presentations or deputations to Council in relation to matters presented on the agenda for Council consideration.

Presentations or deputations are required to be conducted in accordance with the requirements contained within the **Presentation/Deputations Protocols and Procedural Guidelines**.

Persons wishing to make a presentation or deputation to Council on a matter included in the agenda shall inform Council prior to the meeting by contacting the Chief Executive Officer's office and registering their name and agenda item being spoken to.

At the meeting the Mayor will invite the persons wishing to make a presentation or delegation to address the Council on the agenda item.

The person making the presentation or deputation is to stand and address Council on the item. No debate on the item is permitted between the person making the presentation or delegation and the Council.

A maximum of three minutes per presentation or delegation will be allocated. An extension of time may be granted at the discretion of the Mayor.

Councillors, through the Mayor, may ask the person making the presentation or delegation for clarification of matters presented.

The Mayor may direct that a member of the gallery ceases speaking if the above procedure is not followed.

### List of Persons making Presentations/Deputations other than in relation to a planning item listed on the agenda:

Item No	Description	Name	Position
-	-	-	-

### List of Persons making Presentations/Deputations to a planning item listed on the agenda:

Individuals seeking to make a presentation to the Council on a planning item listed on the agenda for consideration at the meeting will be heard by the Council immediately preceding consideration of the Council Officer's report on the planning item.

Item No	Description	Name	Applicant/ Objector
-	-	-	-

**11. OFFICER'S REPORTS**

**11.1 CHIEF EXECUTIVE OFFICER**

No reports for this meeting.

## 11.2 GROWTH AND DEVELOPMENT

### 11.2.1 Draft Community Local Law 2019

Author: Andy Gaze  
General Manager: Satwinder Sandhu

#### Introduction

This report seeks Council approval to continue the process of making a new Local Law to replace the current Moorabool Shire Council General Local Law 2010. A further round of community consultation must be undertaken on the Draft Community Local Law 2019 due to amendments made in response to the previous consultation phase.

#### Background

The current Moorabool Shire Council General Local Law expires on 6 October 2020. A review of the current Local Law commenced in 2017 with two rounds of public consultation taking place. The Draft Community Local Law 2019 (**Attachment 11.2.1a**) is the result of this review process.

The Draft Community Local Law 2019 has been prepared with reference to the State Government Guidelines for the Local Laws and a review of best practice approach across Victoria. This report details the review process to-date, details the major changes via the Community Impact statement December 2018 (**Attachment 11.2.1b**) and recommends the future way forward. The Draft Community Local Law 2019 has been reviewed by solicitors to ensure that it meets the drafting guidelines and does not breach the requirements of the *Local Government Act 1989*.

The Draft Community Local Law 2018 was advertised through the 'Have Your Say' portal, by direct mail to key stakeholders and through the local press in July and August 2018. Feedback obtained through this process and further internal feedback led to the amended Draft Community Local Law 2018 being presented to Council at an Assembly of Council (AOC) on 3 October 2018. At this AOC full details of all the external comments were provided to Councillors. Further amendments as requested by Councillors during the AOC and final discussions with solicitors have resulted in this final draft before Council today. An annotated version showing all the amendments to the original community Local Law 2018 that was presented for community consultation in July and August 2018 is shown in **Attachment 11.2.1d**. Details of the comments received from external community and stakeholders can be seen in **Attachment 11.2.1c**. The details of those who submitted the comments and any details that may identify individuals or properties have been withheld for privacy reasons.

The amendments made due to the consultation process have resulted in the need for the Draft Community Local Law 2019 to again be submitted for public consultation. The consultation stage this time will not be as extensive (in time) as the Draft Community Local Law 2019 has already been out for consultation. The consultation phase will primarily concentrate on the areas of amendment to the Draft Community Local Law 2019 due to the last round of community consultation.

The Local Law Community Impact Statement December 2018 (**Attachment 11.2.1b**) has also been amended in line with the amendments to the Draft Community Local law 2019.

A further report is planned to be brought to Council at its March meeting detailing any further responses received and a finalised version of the draft Community Local Law 2019 for Council consideration. If Council at that time considers that the Draft Community Local Law 2019 requires further major amendment and these amendments place additional burdens on individuals or groups there is a potential that further public consultation will be required.

During now and formal making of the Community Local Law 2019 a number of internal processes will need to be amended and procedures changed to allow for a seamless transition by Council from the current Local Law to the new Local Law. This work will principally involve setting:

- standards for permit applications and assessments;
- standards with regard to compliance functions; and
- new fees and charges for new permits.

### **Proposal**

It is proposed that the review of the Local Laws continues and in line with the requirements of the Local Government Act 1989 the Draft Community Local Law 2019 is placed on exhibition for 6 weeks from 18 December 2018 to 2 February 2019 and that public submissions are invited. It should be noted that due to previous extensive consultation the submissions should focus on the document changes.

### **Policy Implications**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 1:** Providing Good Governance and leadership

**Context 1C:** Our Business and systems

The proposal to review the Local Law is consistent with the Council Plan 2017 – 2021.

### **Financial Implications**

The Draft Community Local Law 2019 contains a number of requirements for people to obtain a permit to undertake specific activities. The provision of these permits will take up resources and as such appropriate fees will need to be levied to ensure that they are provided on a cost neutral setting. It also places numerous requirements over certain activities which have to be monitored by Council staff and action taken for non-compliance. Compliance and enforcement action are by their very nature resource intensive and the introduction of these Local Laws may place additional burdens upon the Council in ensuring that the requirements are met.

### **Risk & Occupational Health & Safety Issues**

The Draft Community Local Law 2019 sets policy for the way forward to ensure local community and environmental wellbeing and liveability of the area over the next 10 years. If the Local law is either too onerous, not specific enough or does not have community and business support activities can be allowed that will be detrimental to the Local community, environment and the areas liveability. To ensure that the requirements of the Local law are able to be successfully implemented it is essential that adequate resourcing be given to ensure that all residents and stakeholders are aware of the requirements and that as required action can be initiated to ensure compliance.

## **Communications and Consultation Strategy**

The community, stakeholders and internal staff have been consulted during the formulation of the Draft Community Local Law 2019. Full community consultation was undertaken in July and August 2018 through the Council's 'Have Your Say' portal. The consultation process was advertised on Council's website, within the local press media and by direct mail to major stakeholders. The proposed new round of consultation will be in the same format as before by utilising Council's 'Have Your Say' portal, placing a notice within the media and direct mail to major stakeholders.

## **Victorian Charter of Human Rights and Responsibilities Act 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

## **Officer's Declaration of Conflict of Interests**

Under section 80C of the *Local Government Act 1989* (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Satwinder Sandhu*

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

*Author – Andy Gaze*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

## **Conclusion**

Due to amendments made to the Draft Community Local Law 2018 following the previous round of consultation a further round of consultation is required. It is proposed to undertake this community consultation from 18 December 2018 to 2 February 2019. This round of community consultation is principally designed to consider any responses to the amendments made considering the previous community consultation phase. A further report to Council is proposed for the March or April 2019 meeting where Council can consider any responses received and decide on the way forward.

**Recommendation:****That Council:**

1. **Note the submissions received on the Draft Community Local Law 2018**
2. **Continue the statutory process for the making of a Local Law and endorse the Draft Community Local Law 2019 (as tabled Attachment 11.2.1a) as a proposed Local Law for public exhibition and submissions under section 223 of the *Local Government Act 1989*;**
3. **Gives public notice of the exhibition of the Draft Community Local Law No. 1 and invites public submissions under section 223 of the *Local Government Act 1989*;**
4. **Resolve that the public notice period to commence on 18 December 2018 and finish on 2 February 2019**

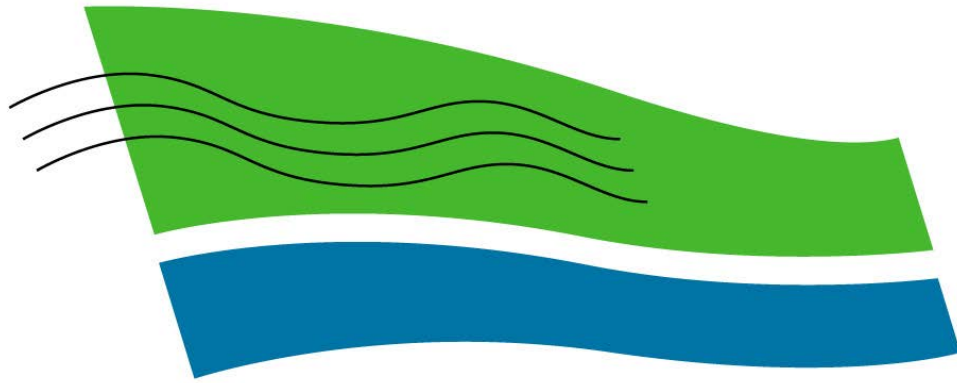
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**Report Authorisation****Authorised by:**

**Name:** Satwinder Sandhu  
**Title:** General Manager Growth and Development  
**Date:** Thursday, 15 November 2018



# Attachment - Item 11.2.1a



# MOORABOOL

## SHIRE COUNCIL

Community Local Law No.1 2019

DRAFT



# Contents

PART 1 - PRELIMINARIES .....	1
1.1 Title.....	1
1.2 Purpose of the Local Law .....	1
1.3 Authorising Provisions .....	1
1.4 Commencement Date.....	1
1.5 Cessation Date .....	2
1.6 Application .....	2
1.7 Revocation of Previous Local Law .....	2
1.8 Definitions.....	3
PART 2 - ADMINISTRATION AND ENFORCEMENT .....	9
2.1 Purpose .....	9
2.2 Permits .....	9
2.2.1 Permit Applications.....	9
2.2.2 Consideration of Permit Applications .....	9
2.2.3 Compliance .....	10
2.2.4 Duration.....	10
2.2.5 Amendment, Cancellation or Correction .....	10
2.2.6 Transferability of Permits.....	11
2.3 Impounding.....	11
2.3.1 Power to Impound .....	11
2.4 Fees.....	12
2.4.1 Setting of Fees and Charges.....	12
2.4.2 Differential or Structured Fees and Charges.....	12
2.5 Enforcement .....	12
2.5.1 Offences .....	12
2.5.2 Notices to Comply .....	12
2.5.3 Power to Act in Urgent Circumstances.....	13
2.5.4 Appeals .....	13
2.5.5 Infringement Notices .....	13
2.5.6 General Penalty at Magistrates' Court .....	14
PART 3 - PROTECTION AND MANAGEMENT OF COUNCIL ASSETS AND INFRASTRUCTURE .....	15
3.1 Protection of Assets and Land.....	15
3.2 Maintenance of Nature Strips .....	15
3.3 Asset Protection Permit .....	15

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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3.4	Discharge into Stormwater .....	17
3.5	Vehicle Crossings.....	17
PART 4 - BUILDING SITES.....		19
4.1	Protection of Stormwater .....	19
4.2	Containment of Building Works within Building Site .....	19
4.3	Fencing.....	19
4.4	Containment of Refuse.....	20
4.5	Windblown Refuse.....	20
4.6	Building Site Identification Sign .....	21
4.7	Building Site Toilet.....	21
4.8	Hours of Operation .....	22
4.9	Direction to Cease Building Work.....	22
PART 5 - ACTIVITIES AND BEHAVIOUR ON ROADS, COUNCIL LAND, MUNICIPAL PLACES AND PUBLIC PLACES.....		23
5.1	Behaviour in Municipal Places.....	23
5.2	Access to Municipal Places .....	23
5.3	Behaviour in Municipal Buildings.....	24
5.4	Behaviour in Municipal Reserves .....	24
5.5	Activities on Roads and Council Land .....	25
5.5.1	Commercial Activities .....	25
5.5.2	Undertaking works or obstruction of access.....	27
5.5.3	Camping .....	27
5.5.4	Use of Vehicles .....	27
5.6	Activities which require a Permit in a Municipal Place.....	28
5.7	Recreational Vehicles on Council Land.....	28
5.8	Shopping Trolleys.....	29
5.9	Parking Permits .....	29
5.10	Roadside Firewood Collections .....	30
5.11	Consumption and Possession of Alcohol .....	30
5.12	Direction by an Authorised Officer in a Municipal Place or on Council Land.....	30
PART 6 - LAND USE AND AMENITY.....		31
6.1	Property Numbers .....	31
6.2	Unightly Land.....	31
6.3	Vacant Land and Abandoned Buildings .....	31
6.4	Maintenance of Private Drains and Stormwater Retention Systems.....	32
6.5	Obstruction of Sign or Signal on a Road .....	32
6.6	Overhanging or Encroaching Vegetation.....	32

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
------------	---	-----------	-------------------------------------

6.7	Shipping Containers .....	32
6.8	Heavy Vehicles .....	33
6.9	Audible Alarms .....	33
6.10	Camping on Private Land .....	33
6.11	Recreational Vehicles .....	34
PART 7 - WASTE MANAGEMENT .....		35
7.1	Septic Tank Systems .....	35
7.2	Reuse of Domestic Grey-Water .....	35
7.3	Storage of Trade Waste .....	35
7.4	Waste Collection and Disposal .....	36
7.5	Hard Waste Collection .....	36
7.6	Interference with Waste .....	36
7.7	Maintenance of Waste, Organic and Recycling Bins .....	37
7.8	Street Bins and Park Bins .....	37
PART 8 - ANIMALS .....		38
8.1	Number of Animals .....	38
8.2	Progeny of Animals .....	39
8.3	Nuisances .....	39
8.4	General Provisions .....	39
8.5	Animal Enclosures .....	40
8.6	Stables .....	41
8.7	Dog Excrement .....	41
8.8	Livestock .....	41
PART 9 - FIRES AND FIRE HAZARDS .....		43
9.1	Open Air Burning .....	43
9.2	Type of Waste that cannot be burnt .....	44
9.3	Direction by Authorised Officer .....	44
Schedule 1	Notice to Comply .....	45
Schedule 2	Penalties .....	46
Schedule 3	Infringement Penalty Units .....	48

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 1 - PRELIMINARIES

### 1.1 Title

This Local Law is known as Moorabool Shire Council Community Local Law 2019 No. 1.

### 1.2 Purpose of the Local Law

This Local Law is made for the purposes of providing for the peace, order and good government of the Municipal District by managing, regulating and controlling activities and uses on any Land to:

- (a) Promote a physical and social environment free from hazards to health or public safety, in which the residents of the Municipal District can enjoy a quality of life that meets the general expectations of the community;
- (b) Prohibit, regulate and control activities or behaviour which may be dangerous, or detrimental to the quality of life and the environment of the Municipal District or which could compromise public safety, Council Land or assets;
- (c) Preserve and enhance amenity, neighbourhood character, health and public safety within the Municipal District by regulating certain activities within the Shire;
- (d) Protect assets vested in, controlled or owned by Council;
- (e) Protect the safety of Road users and the amenity of the Municipal District and provide for the fair and equitable use of Council owned Land;
- (f) Control the consumption and possession of Alcohol in a Public Place, where such consumption or possession may interfere with the amenity and enjoyment of the Public Place by the community;
- (g) Control the impact of the keeping of Animals on the community and the environment;
- (h) Regulate the impact of business activities on the environment, public health and amenity; and
- (i) Revoke Council's General Local Law 2010 – General Local Law.

### 1.3 Authorising Provisions

This Local Law is a Local Law made under Section 111(1) of the *Local Government Act* 1989 and Section 42 of the *Domestic Animals Act* 1994.

### 1.4 Commencement Date

This Local Law commences operation on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 1.5 Cessation Date

This Local Law ceases to operate on the day which is ten (10) years after the day referred to in Clause 1.4, unless revoked sooner.

## 1.6 Application

- (a) This Local Law applies and has operation throughout the whole of the Municipal District.
- (b) This Local Law does not apply where any act or thing regulated by it is authorised by any Act, other subordinate legislation or the Scheme.
- (c) Council may declare or designate areas within the Municipal District as areas to which specified provisions of this Local Law will apply.
- (d) Where Council declares or designates areas under this Local Law it must ensure that those declared or designated areas are:
  - (i) identified on maps or by a geographic description; and
  - (ii) published on Council's website and available in hard copy at Council's office.
- (e) This Local Law incorporates certain documents containing Council Policy, standards or guidelines that apply to specific uses or activities which are intended to assist in achieving the objectives of this Local Law. These policies, standards and guidelines documents that are incorporated will be available for perusal on Council's website. Council reserves the right to amend these documents at any time.
- (f) It is intended that where an incorporated document is applied to a use or activity a person must comply with all of the requirements specified for that use or activity.
- (g) This Local Law does not apply to any person employed or otherwise engaged by Council when undertaking any activity, or fulfilling any duty, on behalf of Council.

## 1.7 Revocation of Previous Local Law

On commencement of this Local Law, Council's General Local Law 2010 – General Local Law is revoked.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 1.8 Definitions

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

<b>Act</b>	means the <i>Local Government Act 1989</i> , as amended from time to time.
<b>Advertising Sign</b>	means any placard, board, Sign, card or banner, whether portable or affixed or attached to any Land, Building, person, Vehicle or Trailer which:  a) Provides information about the Occupier of the Land or Building, or a business or industry;  b) Advertises goods, services, an event or a competition; or  c) Provides directions to the location of property or Land, which is available for pre-sale/lease/rent inspection.  An Advertising Sign can also be a post, placard, bill poster, sticker or other document.
<b>Alcohol</b>	means a beverage intended or used for human consumption, which has an Alcoholic content.
<b>Alcohol Restriction Area</b>	means an area declared by Council as an area in which the consumption of Alcohol is prohibited.
<b>Animal</b>	has the same meaning as in the <i>Summary Offences Act 1966</i> , and includes insects and fish.
<b>Asset Protection Permit</b>	means a Permit issued by Council for the protection of public assets and infrastructure during Building work, in accordance with Clause 3.3 of this Local Law.
<b>Asset Protection Permit Bond</b>	means the sum of money paid or payable, or other guarantee made, to Council in respect to potential loss to Council resulting from Building Works.
<b>Assistance Dog</b>	has the same meaning as in the <i>Equal Opportunity Act 2010</i> .
<b>Authorised Officer</b>	means any person:  a) appointed by Council as an Authorised Officer pursuant to Section 224 of the Act; and  b) a police officer enforcing provisions relating to Alcohol in accordance with Section 224A of the Act.
<b>Builder</b>	means:  a) a Building practitioner under the <i>Building Act 1993</i> ; and  b) an Owner of a Building Site.
<b>Building</b>	has the same meaning as in the <i>Building Act 1993</i> .
<b>Building Site</b>	means any Land on which the Building Work is being undertaken.
<b>Building Work</b>	has the same meaning as in the <i>Building Act 1993</i> .

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Bulk Rubbish Container</b>	means a bin, skip or other container used for the deposit of Waste, but excludes a wheeled Mobile Waste Bin used in connection with Council's Waste collection service.
<b>Busk and Busking</b>	means entertainment that includes playing a musical instrument, singing, conjuring, juggling, mime, mimicry, dance, puppetry, performance art, pavement drawing of any form, recitation and other similar activities.
<b>Camp, Camping</b>	means to erect, occupy or use a tent, any temporary makeshift or similar structure, or to park, occupy or use any Caravan or similar mobile accommodation Vehicle, a Motor Vehicle or Trailer for the purpose of accommodating a person.
<b>Caravan</b>	Includes a Caravan, motorhome, camper van, mobile home or moveable dwelling.
<b>Charity Bin</b>	means a bin or similar structure used by charitable and other organisations for the collection of used clothing or other household goods for recycling purposes.
<b>Chief Executive Officer</b>	has the same meaning as in the Act.
<b>Commercial Area</b>	means an area within a Commercial Zone under the Scheme.
<b>Contractor</b>	means a person who has entered into a written agreement with Council to provide any goods or services or to perform any function.
<b>Council</b>	means Moorabool Shire Council.
<b>Council Land</b>	means all Land: <ul style="list-style-type: none"> <li>a) owned, leased, managed or occupied by Council; or</li> <li>b) vested in, or under the control and management of, Council,</li> </ul> but does not include a Road.
<b>Dilapidated</b>	means a Building that has fallen into a state of disrepair, or that is decayed, deteriorated, broken down or partially ruined through neglect or misuse.
<b>Emergency Service</b>	means any Statutory Authority engaged in the provision of Emergency Services and includes but is not limited to Victoria Police, Ambulance Victoria, Country Fire Authority, Metropolitan Fire Brigade and Victorian State Emergency Service.
<b>Farm Land / Area</b>	means an area within a Farming Zone under the Scheme.
<b>Footpath</b>	includes every Footpath, Land or other place within the Municipal District designed for, and habitually used by, pedestrians.
<b>Graffiti</b>	means inscriptions or drawings scribbled, scratched, sprayed or otherwise applied on any surface.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Green Organics Bin</b>	means a receptacle provided to premises by Council for the purpose of collecting and disposing of household organic material.
<b>Grey-Water</b>	means domestic Wastewater from sources other than a toilet, urinal or bidet (e.g. from showers, baths, spas, hand basins, clothes washing machines, laundry troughs, dishwashers, sinks).
<b>Hard Waste</b>	means any rubbish of a size, shape, nature or volume that cannot be contained in any Mobile Waste Bin, Recyclables Bin or other bin provided by Council in connection with Council's Waste collection service, including any brick, concrete, masonry or engine parts and any other type of rubbish prescribed by Council.
<b>Heavy Vehicle</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Incinerator</b>	means a structure, device or piece of equipment which is designed, adapted used or capable of being used for the burning of any material or substance and which is not enclosed in any Building, is not a barbeque and is not otherwise licensed under the <i>Environment Protection Act 1970</i> .
<b>Industrial Area</b>	means an area within an Industrial Zone under the Scheme.
<b>Itinerant Trading</b>	means Selling or hiring, or offering for sale or hire, goods or services from a temporary location, or from a Vehicle or other transport, and includes mobile food vans.
<b>Land</b>	has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> .
<b>Litter Device</b>	means an apparatus for the purpose of removing dog faeces and includes a paper or plastic bag.
<b>Livestock</b>	has the same meaning as in the <i>Impounding of Livestock Act 1994</i> .
<b>Mobile Waste Bin</b>	means a receptacle provided to a premises by Council for the purpose of collecting and disposing of household Waste.
<b>Motor Cycle</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Motor Vehicle</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Municipal Building</b>	means any Building owned, occupied or under the control and management of Council, or any Building declared by a Resolution of Council to be a Municipal Building.
<b>Municipal District</b>	means the Municipal District of Council.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Municipal Place</b>	means an area that is, at some or all times, open to the public (whether or not an admission fee is payable) including a library, Building, golf course, swimming pool, park or recreation centre, which is owned by, or under the control and management of, Council, and includes a Municipal Reserve, or any place declared by a Resolution of Council to be a Municipal Place, but does not include a Road.
<b>Municipal Reserve</b>	means any Land within the Municipal District that is owned by, or under the control and management of, Council and is dedicated or used for cultural, recreational, environmental or entertainment purposes.
<b>Nature Strip</b>	Means the Council Land between the boundary of a property and the trafficable area of the road
<b>Notice to Comply</b>	means Notice to Comply issued in accordance with Clause 2.5.2 of this Local Law.
<b>Occupier</b>	has the same meaning as in the <i>Environment Protection Act 1970</i> .
<b>Owner (in relation to Land or a Building)</b>	means the person who is registered on the relevant Certificate of Title as the Owner or the person who is entitled to exercise any rights of Ownership to the Land.
<b>Owner (in relation to a Motor Vehicle or Trailer)</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Owner (in respect of a cat or dog)</b>	has the same meaning as in the <i>Domestic Animals Act 1994</i> .
<b>Penalty Unit</b>	has the same meaning as in Section 110 of the <i>Sentencing Act 1991</i> .
<b>Person</b>	has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> .
<b>Policy</b>	means a Policy adopted by Council from time to time for the purpose of the particular provisions of this Local Law in which the term is used.
<b>Permit</b>	means a written Permit issued in accordance with this Local Law which authorises a specified use or activity and includes an Asset Protection Permit.
<b>Public Place</b>	has the same meaning as in the <i>Summary Offences Act 1966</i> .
<b>Purpose Built Outdoor Cooking and/or Heating Device</b>	includes but is not limited to a: <ul style="list-style-type: none"> <li>a) barbeque or other device used for the sole purpose of cooking food; and</li> <li>b) fire within a brazier or chimney or similar device used exclusively for heating purposes.</li> </ul>

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Recreational Vehicle</b>	means any Vehicle normally used for recreational purposes that may be propelled or operated by internal combustion, steam, gas, oil, electricity or any other power purposes but does not include a human powered Vehicle. Without being exhaustive, it includes a: <ul style="list-style-type: none"> <li>a) mini bike;</li> <li>b) trail bike;</li> <li>c) go cart; and</li> <li>d) any other 2 or 4 wheeled Vehicle designed or adapted for recreation.</li> </ul>
<b>Recyclables Bin</b>	means a receptacle provided to premises by Council for the purpose of collecting and disposing of household recyclable material.
<b>Refuse</b>	means all Waste or rubbish produced or accumulated in or on any Land, premises or property.
<b>Residential Area</b>	means an area within a Residential Zone under the Scheme.
<b>Road</b>	has the same meaning as in the Act.
<b>Rural Area</b>	means an area within a Rural Zone under the Scheme.
<b>Schedule</b>	means a Schedule to this Local Law.
<b>Scheme</b>	means the Moorabool Planning Scheme.
<b>Sell</b>	includes: <ul style="list-style-type: none"> <li>a) barter, offer or attempt to Sell, have in possession for sale, or allow to be sold or offered for sale; and</li> <li>b) Sell for re-sale.</li> </ul>
<b>Septic Tank System</b>	has the same meaning as in the <i>Environment Protection Act 1970</i> .
<b>Service Authority</b>	any company or Statutory Authority responsible for the installation of telecommunications, gas, electricity, water sewerage or drainage facilities in, on, over or under a Road.
<b>Shopping Trolley</b>	means a wheeled container, receptacle or carriage item supplied by a retailer for customers to transport goods.
<b>Sign</b>	means any placard, board, Sign, card or banner, whether portable or affixed or attached to any Land, fence, Building, person, Vehicle or Trailer, other than an Advertising Sign.
<b>Statutory Authority</b>	means: <ul style="list-style-type: none"> <li>a) the State and Commonwealth Government, or a department of either Government; and</li> <li>b) body established under an Act of the Parliament of Victoria, and of any other State or Territory of the Commonwealth, and of the Commonwealth.</li> </ul>
<b>Trailer</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Unightly</b>	with respect to Land means any Land which is unkempt and is detrimental to the general amenity of the neighbourhood, when viewed from a Public Place.
<b>Vehicle</b>	has the same meaning as in the <i>Road Safety Road Rules 2009</i> .
<b>Vermin</b>	means “pest Animal” as defined under the <i>Catchment and Land Protection Act 1994</i> .
<b>Waste</b>	means any discarded, rejected, unwanted, surplus or abandoned matter (whether solid or liquid).
<b>Wheeled toy</b>	has the same meaning as in the <i>Road Safety Road Rules 2009</i> .
<b>Zone</b>	is a Zone identified in the Scheme.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 2 - ADMINISTRATION AND ENFORCEMENT

### 2.1 Purpose

The purpose of this Part is to provide for the issuing of Permits, impounding of items or things, setting of fees and charges, and enforcement of provisions of this Local Law.

### 2.2 Permits

#### 2.2.1 Permit Applications

- (a) An application for a Permit must be:
  - (i) in the form prescribed by Council from time to time; and
  - (ii) be accompanied by the appropriate fee as determined by Council from time to time.
- (b) Council may require additional information to be provided to enable an application for a Permit to be properly considered and for the purposes of administering and enforcing the provisions of this Local Law.
- (c) Council may require a person making an application for a Permit to give notice of the application to specified persons, or a specified class of persons, whom it considers may be affected by the granting of the Permit, which will entitle those persons to make a submission, which must be considered by Council before the application is determined.

#### 2.2.2 Consideration of Permit Applications

- (a) In considering an application for a Permit, Council must consider any:
  - (i) applicable Policy, code of practice or guideline approved by Council from time to time;
  - (ii) relevant written objection, submission or comment received from any person, public body or community organisation in respect of the application; and
  - (iii) other relevant matter.
- (b) A Permit may be refused or issued with or without conditions.
- (c) If a Permit is issued with conditions, those conditions may include, but are not limited to, conditions concerning:
  - (i) the payment of a fee or charge;
  - (ii) a standard to be applied;
  - (iii) a time limit to be applied;
  - (iv) the operation of the Permit being subject to the happening of a specified event;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (v) the requirement to rectify, remedy or restore a situation or circumstance; and
  - (vi) any other matter as considered appropriate.
- (d) If the applicant is not the Owner of the Land, which is the subject of the application, the consent of the Owner must be provided to Council with the application, unless the application concerns Council Land or relates an application for additional cats or dogs.

### 2.2.3 Compliance

A person must comply with the conditions of any Permit issued by Council.

### 2.2.4 Duration

A Permit operates from the date it is issued and expires one year after the date of issue, except where expressly stated otherwise in this Local Law or in the Permit.

### 2.2.5 Amendment, Cancellation or Correction

- (a) Council may amend a condition of a Permit or cancel a Permit at any time if:
- (i) requested to do so by the Permit holder; or
  - (ii) Council considers that there has been:
    - (A) a material misstatement or concealment of fact in the application;
    - (B) a material mistake in relation to the issuing of the Permit;
    - (C) a material change of circumstances since the Permit was issued; or
    - (D) a failure to comply with a Permit condition or Notice to Comply relating to the Permit.
- (b) Council may correct a Permit issued if that Permit contains a:
- (i) clerical mistake or an error arising from any accident, slip or omission;
  - (ii) material miscalculation of figures; or
  - (iii) material mistake in the description of any person, thing or property referred to in the Permit.
- (c) Except in the case of a minor correction that does not affect the operation of a Permit, if Council proposes to amend a condition of a Permit, cancel a Permit or correct a Permit, it must:
- (i) give the Permit holder an opportunity to make a submission on whether the amendment, cancellation or correction should occur; and

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (ii) take into account those submissions (if any) in deciding whether to amend a condition of a Permit, cancel a Permit or correct a Permit.
- (d) If a Permit holder is not the Owner of the Land, the Owner of the Land must be notified of any amendment, cancellation or correction of the Permit.

### 2.2.6 Transferability of Permits

Unless otherwise stated in the Permit, a Permit:

- (a) is personal to the Permit holder; and
- (b) authorises only the person, or an agent acting on behalf of the person, named in the Permit to carry out the activity authorised; and
- (c) is not transferable without Council's prior written consent.

## 2.3 Impounding

### 2.3.1 Power to Impound

- (a) An Authorised Officer may impound any Animal, item or thing associated with a contravention of this Local Law.
- (b) As soon as reasonably practical after impounding any Animal, item or thing, an Authorised Officer must serve a Notice of Impounding on the Owner or other person apparently responsible for the item or thing setting out:
  - (i) any fees and charges payable in respect of the impounding;
  - (ii) the time within which the impounded item or thing must be
  - (iii) claimed; and
  - (iv) that the item or thing, if not claimed within that specified time, may be disposed of by Council.
- (c) Clause 2.3.1(b) does not apply where the Authorised Officer cannot, after making reasonable inquiries, identify or locate the owner or other person apparently responsible for the item or thing.
- (d) If an Authorised Officer has impounded any Animal, item or thing in accordance with this Local Law, Council may refuse to release it until the appropriate fee or charge has been paid to Council.
- (e) Any impounded Animal, item or thing not claimed within the time specified on the notice of impounding may be disposed of by Council including by sale, tender, public auction or given away.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 2.4 Fees

### 2.4.1 Setting of Fees and Charges

- (a) Council may from time to time by resolution determine any:
- (i) fees and charges; and
  - (ii) guarantees and bonds,
- to apply under this Local Law.
- (b) Council may from time to time by resolution, determine an administrative, inspection or processing fee or charge, in addition to any standard fee, charge, guarantee or bond applied under this Local Law.
- (c) Council must give reasonable public notice of any resolution made under this Clause 2.4.1.

### 2.4.2 Differential or Structured Fees and Charges

In making a determination under Clause 2.4.1, Council may establish a system or structure of fees and charges, including a maximum fee or charge, if it considers it appropriate to do so.

## 2.5 Enforcement

### 2.5.1 Offences

A person is guilty of an offence if the person fails to:

- (a) comply with any provision of this Local Law;
- (b) obtain a Permit when required under this Local Law;
- (c) comply with any condition of a Permit issued in accordance with this Local Law;
- (d) comply with a Notice to Comply issued in accordance with this Local Law; or
- (e) comply with any reasonable direction of an Authorised Officer.

### 2.5.2 Notices to Comply

- (a) Council may, by serving a Notice to Comply substantially in the form of Schedule 1, direct any person to remedy anything which constitutes an offence under, or is otherwise contrary to, this Local Law.
- (b) A person must comply with the requirements of a Notice to Comply.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 2.5.3 Power to Act in Urgent Circumstances

- (a) An Authorised Officer may, in urgent circumstances arising from a failure to comply with this Local Law, take action to remedy the situation without serving a Notice to Comply if:
  - (i) the Authorised Officer considers the circumstances or situation to be sufficiently urgent that the time involved, or difficulties associated, with the serving of a Notice to Comply may place a person, Animal, property or thing at risk or in danger; and
  - (ii) details of the circumstances giving rise to the urgent action and the remedial action are, as soon as reasonably practical, forwarded to the person in respect of whom the action was taken.
- (b) The urgent action taken by the Authorised Officer under this Clause 2.5.3 must not extend beyond what is reasonably necessary to alleviate the immediate risk and danger involved.

#### GUIDANCE NOTE:

Where a person fails to comply with a Notice to Comply issued under Clause 2.5.2, Council may undertake the works necessary for compliance. In that case, and in a case where Council undertakes urgent works under Clause 2.5.3, Council may recover its costs incurred in undertaking those works from the person responsible for the breach, in accordance with Section 225 of the Act.

### 2.5.4 Appeals

- (a) Subject to Clause 2.5.4(c), any person who is aggrieved by any refusal to issue a Permit, Permit condition, direction or Notice to Comply issued in accordance with this Local Law (“decision”) may, within 28 days after the date of being notified of the decision, or such shorter time specified in the decision, request a review of the decision accompanied by written submission supporting the request.
- (b) A person who makes a request under this Clause 2.5.4 is not relieved of their obligation to comply with the decision.
- (c) Where the Authorised Officer who issues a Notice to Comply is of the opinion that urgent compliance is necessary, the right of appeal provided by Clause 2.5.4(a) may be expressly excluded by the Notice to Comply.

### 2.5.5 Infringement Notices

The infringement notice Penalty in respect of an offence under this Local Law is set out in Schedule 3.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 2.5.6 General Penalty at Magistrates' Court

Except as otherwise set out in Schedule 2 to this Local Law, any person who is guilty of an offence against this Local Law is liable to:

- (a) a maximum Penalty of not more than 20 Penalty units; and
- (b) for a continuing offence, a maximum Penalty not more than two (2) Penalty units for each day that the contravention continues after a finding of guilt or conviction.

**GUIDANCE NOTE:**

Council retains discretion about its enforcement of this Local Law. That discretion will generally be exercised by having regard to the Local Law objectives, the public benefit in enforcing and the proportionality of the enforcement in the context of the offence committed and the public benefit derived.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 3 - PROTECTION AND MANAGEMENT OF COUNCIL ASSETS AND INFRASTRUCTURE

### 3.1 Protection of Assets and Land

A person must not, without a Permit, destroy, damage, deface, interfere with, excavate or tap into any:

- (a) vegetation including trees, plants or grass;
- (b) fence, sign, tree band guard, service conduit, hydrant or other asset;
- (c) constructed asset including toilet blocks, BBQ's, benches and play equipment;
- (d) drain; or
- (e) watercourse, ditch creek, gutter, tunnel, bridge, levee, culvert, fence, or other similar asset,

that is vested in, controlled or owned by Council.

### 3.2 Maintenance of Nature Strips

An Owner or Occupier of Land in a Residential Area where the posted speed limit on the road is 60 KPH or less must ensure that the Nature Strip adjacent to that Land:

- (a) is maintained in a neat and tidy condition; and
- (b) does not contain grass, stubble or undergrowth exceeding 150mm in height.

#### GUIDANCE NOTE:

To undertake any works other than mowing, weeding and general lawn and vegetation maintenance a Permit is required under Clause 3.1.

### 3.3 Asset Protection Permit

- (a) If Building Work is to be carried out on any Land the:
  - (i) Owner of the relevant Land;
  - (ii) Builder engaged to carry out the Building work;
  - (iii) agent appointed for that purpose; or
  - (iv) demolition Contractor engaged to carry out demolition as part of the Building Work.must:
  - (v) not carry out, or allow to be carried out, any Building Work on that Land unless an Asset Protection Permit has been obtained;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (vi) not carry out, or allow to be carried out, any Building Work on that Land in contravention of any conditions attached to the Asset Protection Permit that has been obtained; and
- (vii) pay any Asset Protection Permit Bond specified in the Asset Protection Permit,

unless the type of Building Work has been exempted, or the person carrying out that Building Work is a person who has been exempted, or belongs to a class of persons that is exempt, from this Clause 3.3 as determined by Council from time to time.

- (b) An Asset Protection Permit may be subject to such conditions as Council sees fit, including but not limited to requiring:
  - (i) protection works to be done;
  - (ii) the payment of an Asset Protection Bond;
  - (iii) the erection of temporary fencing to the satisfaction of Council; and
  - (iv) that any public asset or infrastructure damage be repaired, replaced or reinstated within a specified time and to a specified standard.

**GUIDANCE NOTE:**

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 public assets or infrastructure are likely to be damaged.
- store or place items on or in Council Land or Road.

The amount of any Asset Protection Bond determined under Clause 3.3 will generally take into account:

- the type, size and nature of the Building work being undertaken;
- the total cost of the Building work being undertaken;
- the likely impact of the Building work on assets and infrastructure in the vicinity of the relevant Land; and
- any other factor that Council considers relevant.

- (c) The person to whom the Asset Protection Permit is issued must notify Council, in writing:
  - (i) of the proposed date for commencement of the Building Work at least seven (7) days prior to its commencement, unless a commencement date was specified in the Permit application and remains unchanged; and

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (ii) prior to the commencement of any works, of any damage to any Road (including a Road reserve, Footpath or Nature Strip) or other public asset within the area covered by the Asset Protection Permit existing at the time of that notice.
- (d) The person to whom the Asset Protection Permit is issued must repair or reinstate any damaged Road, drain, Nature Strip, kerb, channel, Vehicle crossing or other asset vested in Council within the area covered by the Asset Protection Permit or which is otherwise affected by the Building Work, and any repairs must be performed to the satisfaction of Council.
- (e) Upon completion of the Building Work, Council may:
  - (i) retain all or part of any Asset Protection Bond to offset the costs to Council of repairing any damage to any public asset;
  - (ii) upon being satisfied that no damage has been caused to any public asset, or that any damage has been repaired to Council's satisfaction, refund the Asset Protection Bond in full to the person who paid it; or
  - (iii) refund to the person who paid the Asset Protection Bond such portion of it as remains after Council has undertaken work necessary to repair or replace any damaged public asset.
- (f) For purposes of determining whether any damage to public assets has resulted from the execution of any Building Work, failure to provide prior notice of such damage under Clause 3.3(b) is prima facie proof that there was no existing damage to such public assets prior to the Building Work taking place.
- (g) Council may, in its absolute discretion, accept an alternative form of security to an Asset Protection Bond.
- (h) Where a person to whom an Asset Protection Permit is issued has caused damage to any public asset and the cost to repair the damage exceeds the amount of the Asset Protection Bond paid, Council may seek to recover the additional costs of repair from that person as a debt.

### 3.4 Discharge into Stormwater

A person must not allow the discharge of any substance, other than stormwater, into Council's stormwater drainage network.

### 3.5 Vehicle Crossings

- (a) Each of the Owner and the Occupier of Land must ensure that:
  - (i) each point at which a Vehicle accesses or egresses that Land from or to a Road is a Vehicle crossing that is constructed to Council's satisfaction; and
  - (ii) no Vehicle is allowed to enter or leave the Land except by using the properly constructed Vehicle crossing or otherwise in accordance with an Asset Protection Permit issued under Clause 3.3.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (b) Council or an Authorised Officer may serve a Notice to Comply requiring the Owner or Occupier of Land to construct a temporary or permanent Vehicle crossing.
- (c) A person must not permanently or temporarily construct, remove or alter a Vehicle crossing:
  - (i) without a Permit issued in accordance with the *Planning and Environment Act 1987*; or
  - (ii) without an Asset Protection Permit issued in accordance with Clause 3.3; or
  - (iii) otherwise in accordance with a Permit issued by Council or an Authorised Officer under this Clause 3.5.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 4 - BUILDING SITES

### 4.1 Protection of Stormwater

The person responsible for the management of a Building Site must ensure that the Building Site is managed in a way that minimises the risk of stormwater pollution through the contamination of run off by chemicals, sediments and gross pollutants (including but not limited to potential windblown Refuse).

#### GUIDANCE NOTE:

Compliance with Clause 4.1 can be demonstrated by compliance with any applicable Local Government, State Government or Industry guidelines relating to the protection of stormwater.

### 4.2 Containment of Building Works within Building Site

The person responsible for the management of a Building Site must ensure that all Building Work is contained entirely within the Building Site.

### 4.3 Fencing

- (a) Unless exempted by Council, the person responsible for the management of a Building Site must ensure a fence is erected around the entire perimeter of the Building Site which:
- (i) is a minimum of 1.8 metres in height;
  - (ii) is constructed of solid material or steel mesh panels with mesh sections not greater than 75 square centimetres (e.g. 150mm x 50mm);
  - (iii) is securely fastened to become continuous without gaps;
  - (iv) is adequately braced to prevent falling in high winds;
  - (v) prevents silt or any other materials from escaping underneath the fence;
  - (vi) is constructed entirely within the Building Site; and
  - (vii) remains in place for the entire period that Building Work is being conducted on the Building Site, or until a certificate of occupancy has been granted, whichever occurs last.
- (b) The person responsible for the management of a Building Site must, unless a Permit has been issued ensure that the fence erected under Clause 4.3(a) does not have more than one access opening and this opening is fitted with gates which:
- (i) swing into the Building Site or slide or roll along the existing fence line;
  - (ii) are not less than 1.8 metres in height;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (iii) are located to correspond with the Vehicle crossing pertaining to that Building Site; and
- (iv) are constructed to the same standard as that specified in Clause 4.3(a).
- (c) Any Building Site fencing that is damaged or removed as a result of Building Work, or any other reason, must be reinstated within 24 hours of the damage or removal. No building work shall be undertaken on the site until any damaged or removed fencing is fully reinstated.

#### 4.4 Containment of Refuse

- (a) The person responsible for the management of a Building Site must ensure that a rubbish container is placed on the Building Site, or at a location approved by Council, at the commencement of any Building work which:
  - (i) is designed and constructed to prevent the escape of its contents by wind or any other means;
  - (ii) has a secure lid that remains closed at all times except when depositing Waste from the Building Site;
  - (iii) has a minimum usable capacity of three (3) cubic metres;
  - (iv) remains on the Building Site, or at a location approved by Council, for the duration of all Building Work;
  - (v) remains intact, serviceable and suitable for the amount and type of Waste it is to be used for; and
  - (vi) is emptied before it becomes full.
- (b) The person responsible for the management of a Building Site must ensure that:
  - (i) no rubbish container is placed in a Public Place or on a Road without an Asset Protection Permit, and
  - (ii) all rubbish containers are removed from the Building Site within seven (7) days of completion of Building Work or certificate of occupancy being issued, whichever occurs first.

#### 4.5 Windblown Refuse

The person responsible for the management of a Building Site must ensure that all:

- (a) windblown Refuse is deposited in a rubbish container; and
- (b) dust from the Building Site is controlled to the satisfaction of an Authorised Officer.

**GUIDANCE NOTE:**

Windblown Refuse or dust leaving the Building Site may alternatively, be subject to controls under the *Environment Protection Act 1970*.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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#### 4.6 Building Site Identification Sign

The person responsible for the management of a Building Site must ensure that:

- (a) a Sign is erected at the main entrance to the Building Site at the commencement of the Building Work and remains for the duration of the Building Work which is at least 600mm x 400mm in size and clearly displays the:
  - (i) lot number and street address, as described on the Certificate of Title relevant to the Land;
  - (ii) name of the Builder, as identified on any building permit for the Building Site;
  - (iii) name of the person in charge of the Building Site;
  - (iv) postal address of the person in charge of the Building Site;
  - (v) contact telephone number or numbers for the person in charge of the Building Site; and
- (b) the Sign erected under this Clause 4.6 is amended within 24 hours of any change of information contained on the Sign.

#### 4.7 Building Site Toilet

- (a) The person responsible for the management of a Building Site must, at the commencement of any Building Work, provide a minimum of one on-site toilet with serviceable hand washing facilities for use by persons working on the Building Site which:
  - (i) is clean and serviceable at all times;
  - (ii) faces inwards to the Building Site;
  - (iii) is placed on level ground and;
  - (iv) is kept clear of obstructions.
- (b) Notwithstanding Clause 4.7(a) a person responsible for the management of a Building Site may provide a toilet with serviceable hand washing facilities on an adjacent site under their control provided that:
  - (i) no more than three (3) adjacent Building Sites are serviced by the same toilet;
  - (ii) access to the toilet is provided to any person working on the Building Sites; and
  - (iii) the toilet otherwise complies with the requirements of Clause 4.7(a).

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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#### 4.8 Hours of Operation

The person responsible for the management of a Building Site must ensure that works on the site, that are audible in a habitable room in any other residential premises, do not;

- (a) Commence before 7.00am Monday to Friday or before 9.00am on any weekends or public holiday; and
- (b) Continue after 8.00pm Monday to Friday, weekends or public holiday.

#### 4.9 Direction to Cease Building Work

A person must immediately cease all Building Work when directed either orally or in writing by an Authorised Officer to do so.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 5 - ACTIVITIES AND BEHAVIOUR ON ROADS, COUNCIL LAND, MUNICIPAL PLACES AND PUBLIC PLACES

### 5.1 Behaviour in Municipal Places

A person must not in a Municipal Place:

- (a) create a nuisance;
- (b) destroy, damage, interfere with or deface anything located there, without a Permit;
- (c) remove anything without a Permit;
- (d) destroy, damage, climb on, remove or interfere with any flora without a Permit;
- (e) deposit or discard any litter or used syringe, except in a receptacle provided for that purpose;
- (f) obstruct, hinder or interfere with any member of Council staff in the performance their duties;
- (g) use or interfere with any lifesaving or emergency device located there, unless using the device in an emergency or participating in instruction or maintenance approved by Council;
- (h) act in a manner that is likely to interfere with the reasonable use and enjoyment by other persons; or
- (i) smoke any tobacco product or use any electronic smoking device within ten (10) metres of any Municipal Building except in a signed designated smoking area.

### 5.2 Access to Municipal Places

- (a) Council may:
  - (i) determine the hours when a Municipal Place will be open to the public;
  - (ii) restrict access to a Municipal Place or part of a Municipal Place;
  - (iii) authorise any person to occupy a Municipal Place or to restrict access to the Municipal Place;
  - (iv) close a Municipal Place or part of a Municipal Place to the public;
  - (v) charge fees, or authorise any other person to charge fees, for admission to or use of a Municipal Place or part of a Municipal Place; and
  - (vi) designate by appropriate Signage areas as no smoking areas.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (b) Council may establish, from time to time:
  - (i) conditions applying to, and fees or charges for admission to or the hire or use of, a Municipal Place or part of a Municipal Place; and
  - (ii) conditions applying to, and fees or charges payable for, the hire or use of any property of Council in connection with a Municipal Place.
- (c) A person must not, without a Permit:
  - (i) enter a Municipal Place other than through an entrance provided for that purpose;
  - (ii) enter or remain in a Municipal Place during hours when the Municipal Place is not open to the public; or
  - (iii) enter or remain in a Municipal Place without the applicable fee or charge having been paid.

### 5.3 Behaviour in Municipal Buildings

A person must not, without a Permit:

- (a) organise, conduct or hold any function or event in a Municipal Building;
- (b) bring any Animal into, or allow any Animal under their control to remain in, a Municipal Building, except for an Assistance Dog being used by a person with a disability;
- (c) bring any Vehicle, Recreational Vehicle or Wheeled Toy into a Municipal Building;
- (d) bring into a Municipal Building any substance, liquid or powder which may:
  - (i) be dangerous or injurious to health;
  - (ii) have the potential to foul, pollute or soil any part of the Municipal Building; or
  - (iii) cause discomfort to persons.

### 5.4 Behaviour in Municipal Reserves

A person must not, in any Municipal Reserve:

- (a) enter upon or remain on any area set aside as a playing ground during the course of an organised sporting match or gathering, unless they are a player or an official or a competitor at the organised sporting match or gathering;
- (b) destroy, damage, climb on, remove or interfere with any structure;
- (c) kill, injure or interfere with any fauna;
- (d) throw any stones or missiles;
- (e) spit upon or otherwise foul any path or structure;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (f) use any children's playground equipment other than for the purpose for which it was designed;
- (g) swim, paddle, dive, jump into or otherwise enter any wetland, lake, pond or fountain, unless authorised by Signage erected by Council;
- (h) throw or place, or cause or allow to be thrown or placed, any liquid, stones, sticks, paper, dirt, rubbish or any other object, substance or thing into any wetland, lake, pond or fountain;
- (i) play, engage in or practice any game, sport or activity, or use any facilities or spaces, (whether or not a Permit has been issued under this Local Law), in a manner that is:
  - (i) dangerous to any person or property; or
  - (ii) likely to interfere with the reasonable use and enjoyment of the Municipal Reserve by others.
- (j) walk on or damage any plot, bed, border, closed track, replanting area or other area set aside for plants;
- (k) post signs on any fence, gate, wall, seat, or other structure or vegetation without a Permit;
- (l) drive any Vehicle in a manner that is:
  - (i) dangerous to any other person in the Municipal Reserve; or
  - (ii) likely to interfere with the reasonable use and enjoyment of the Municipal Reserve by any other person.
- (m) park any Vehicle in contravention of any parking restrictions that apply in that Municipal Reserve; or
- (n) park or drive a Vehicle other than in an area set aside for that purpose.

## 5.5 Activities on Roads and Council Land

### 5.5.1 Commercial Activities

- (a) A person must not, without a Permit, or as otherwise provided by this Local Law, on any Road or Council Land undertake a commercial activity including:
  - (i) displaying or advertising any goods or services;
  - (ii) placing any Sign or Advertising Sign (including an 'A' frame Sign);
  - (iii) placing tables, chairs, outdoor umbrellas, planter boxes, barriers, outdoor heaters or any other item;
  - (iv) posting any placard, bill, poster, sticker or other document;
  - (v) handing out, posters, flyers or other such similar advertising material;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (vi) conducting a street stall;
  - (vii) holding a circus, carnival, festival, fete or other similar event;
  - (viii) conducting activities connected with a fitness, exercise or personal training business, group or organization;
  - (ix) busking;
  - (x) conducting Itinerant Trading; or
  - (xi) marking Graffiti.
- (b) A person must not commission another person to do anything which breaches of Clause 5.5.1(a).
- (c) If a Sign, including an Advertising Sign, is placed in breach of Clause 5.5.1(a), each person who:
- (i) is knowingly concerned in the operation of the business, event or activity to which the Sign relates;
  - (ii) has the management and control of premises, property, business, event or activity to which the Sign relates;
  - (iii) is a promoter of the premises, property, business, event or activity to which the Sign relates; or
  - (iv) is responsible for the placement, siting or distribution of the Sign, including without limitation the person who engaged the person who physically placed or distributed the Sign,

is guilty of an offence against this Local Law, whether or not the person who physically placed the Sign is identified or prosecuted.

- (d) Nothing in Clause 5.5.1(c) affects the liability under Clause 5.5.1(a) of any person who actually places any such Sign.
- (e) A person who has placed, allowed to be placed, displayed or allowed to be displayed:
- (i) goods;
  - (ii) a Sign; or
  - (iii) a seat, umbrella, table, chair other furniture or any other item on a Road or Council Land, whether or not in accordance with a Permit,

must move or remove it or them if directed to do so by:

- (iv) an Authorised Officer; or
- (v) a member of an Emergency Service.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 5.5.2 Undertaking works or obstruction of access

- (a) A person must not, without a Permit, or otherwise in accordance with this Local Law:
- (i) occupy or fence off a Road or Council Land;
  - (ii) excavate a Road or Council Land;
  - (iii) remove, damage or interfere with any structure, flora or item on a Road or Council Land;
  - (iv) leave, store or allow to be left any Bulk Rubbish Container, storage or shipping container (pods), skip bin or Trailer skip on Road or Council Land;
  - (v) store a trade Waste hopper or bin on a Road or Council Land;
  - (vi) leave or store, or allow to be left or stored, any other thing that encroaches on, obstructs the free use of, reduces the breadth of, or confines the limits of Road or Council Land;
  - (vii) construct or erect any hoarding, scaffolding or structure on a Road or Council Land;
  - (viii) occupy, or allow the occupation of, a Road or Council Land for the purpose of filming for commercial purposes or public exhibition or the placement of any equipment associated with such an activity; or
  - (ix) place a Charity Bin on a Road or Council Land.
- (b) Any person who undertakes work on a Road or part of a Road under the control of Council must perform the work to the standard, if any, specified by Council.
- (c) Council may exempt:
- (i) a person; or
  - (ii) a class of persons,
- from the application of this Clause 5.5.2 or any part of it.

### 5.5.3 Camping

A person must not, without a Permit:

- (a) Camp or;
- (b) use a Motor Vehicle, Caravan or other temporary or makeshift structure;

for the purpose of accommodation, on any Road or Council Land unless Council has set aside that Road or Council Land for that purpose.

### 5.5.4 Use of Vehicles

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (a) A person must not, without a Permit, on any Road or Council Land:
  - (i) service, paint or dismantle any Motor Vehicle, Caravan or Trailer;
  - (ii) repair any Motor Vehicle, except where necessary to enable that Motor Vehicle to be removed;
  - (iii) park or leave, or cause to be parked or left, a Motor Vehicle, Caravan or Trailer for the purpose of displaying it for sale;
  - (iv) park or leave, or cause to be parked or left, a Motor Vehicle, Caravan or Trailer in the same place for more than 14 consecutive days in any 28-day period.
- (b) A person must not, without a Permit on any Council Land:
  - (i) leave any derelict, damaged, unroadworthy or unregistered Motor Vehicle, Caravan or Trailer; or
  - (ii) abandon or cause to be abandoned any Motor Vehicle, Caravan or Trailer.

## 5.6 Activities which require a Permit in a Municipal Place

A person must not, without a Permit, in any Municipal Place:

- (a) ride or drive a Vehicle or horse except for:
  - (i) parking a Vehicle in a parking area established for that purpose;
  - (ii) wheeling a bicycle, pram, baby or child carriage, wheelchair or children's toy along a Footpath or riding a bicycle or horse in a manner that does not interfere with the use or enjoyment of the Municipal Reserve by any other person; or
  - (iii) on a Road or bicycle path in accordance with any applicable Acts or regulations;
- (b) light a fire or allow any fire to remain alight except in a Purpose Built Outdoor Cooking Device provided by Council, or a commercially manufactured Purpose Built Outdoor Cooking Device assembled and operated according to manufacturer specifications; or
- (c) operate any device that has a predominant purpose of amplifying voice, music or noise.

## 5.7 Recreational Vehicles on Council Land

- (a) A person must not, without a Permit, use a Recreational Vehicle on Council Land.
- (b) A person must not ride any unregistered Recreational Vehicle on Council Land.
- (c) A person who owns an unregistered Recreational Vehicle must not knowingly allow another person to ride the Recreational Vehicle on Council Land.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (d) An Authorised Officer may, in accordance with Clause 2.3, impound a Recreational Vehicle being used in contravention of this Clause.

## 5.8 Shopping Trolleys

- (a) A person must not abandon or leave a Shopping Trolley, other than in an area set aside for the leaving of Shopping Trolleys, on any Road or Council Land.
- (b) Any Shopping Trolley left on any Road or Council Land other than in an area set aside for leaving Shopping Trolleys may be impounded by an Authorised Officer.
- (c) A retailer must not make a Shopping Trolley available for use, or allow a Shopping Trolley to be used, which does not have a locking mechanism attached.
- (d) For the purpose of Clause 5.8(c), locking mechanism means
  - (i) a coin-operated lock; or
  - (ii) any other device designed to prevent the theft or removal of the Shopping Trolley from the vicinity of the business that provides the Shopping Trolley.
- (e) Clause 5.8(c) does not apply to a retailer who makes available for use, or allows to be used, 25 Shopping Trolleys or less.
- (f) A retailer may apply in writing to Council for an exemption from the application of Clause 5.8(c), which exemption, if granted, may operate for a specified period or indefinitely.

## 5.9 Parking Permits

- (a) Any person who has been allocated a parking Permit must not:
  - (i) Sell or offer to Sell the parking Permit;
  - (ii) give away for no charge, or offer to give away for no charge, the parking Permit, other than a temporary visitor Permit to be used by a legitimate visitor; or
  - (iii) otherwise allow the parking Permit (or other temporary visitor Permit being used by a legitimate visitor) to be used by any person other than a Vehicle parking Permit holder or their visitor.
- (b) A person, other than a visitor using a temporary visitor Permit, must not:
  - (i) purchase, or induce to purchase, a parking Permit from any parking Permit holder or other person not authorised to issue a parking Permit;
  - (ii) receive, or induce to receive, whether for a charge or not, a parking Permit from any parking Permit holder or other person not authorised to issue a parking Permit; or
  - (iii) use, or attempt to use, a parking Permit if they are not the person who is entitled to use it.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 5.10 Roadside Firewood Collections

A person must not, without a Permit, collect, cut or remove firewood from any Road or Council Land.

## 5.11 Consumption and Possession of Alcohol

- (a) Council may, from time to time by resolution, declare an area to be an Alcohol Restriction Area.
- (b) After a declaration is made, signage must be erected which identifies the relevant area as an Alcohol Restriction Area.
- (c) A declaration may define an Alcohol Restriction Area by:
  - (i) description; or
  - (ii) reference to a plan or map.
- (d) A person must not, without a Permit, in an Alcohol Restriction Area:
  - (i) consume Alcohol; or
  - (ii) be in possession of Alcohol, other than in a sealed container.
- (e) Clause 5.11 does not apply to a person who possesses or consumes Alcohol:
  - (i) within licensed premises in accordance with the *Liquor Control Reform Act 1998*;
  - (ii) on private property; or
  - (iii) otherwise in accordance with a Permit.

## 5.12 Direction by an Authorised Officer in a Municipal Place or on Council Land

A person must at all times comply with any:

- (a) reasonable direction of an Authorised Officer; and
- (b) requirement set out in a Sign erected by Council, on any Council Land.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 6 - LAND USE AND AMENITY

### 6.1 Property Numbers

- (a) If Council has allocated a number to Land within its Municipal District, each of the Owner and the Occupier of that Land must ensure that the allocated number is visible and is maintained in accordance with Clause 6.1(b).
- (b) The number must be positioned and be of a size to be clearly visible from the carriageway of the adjoining Road.

### 6.2 Unsightly Land

Each of the Owner and the Occupier of Land must ensure that it is not kept in a manner which is Unsightly.

#### GUIDANCE NOTE:

Land may be considered by Council to be unsightly if, among other things, it contains:

- uncontained rubbish;
- native and non-native grass, noxious weeds, weeds and undergrowth which exceed a height of 150mm.
- disused excavations or Waste material;
- Graffiti on any Building, structure or boundary fence;
- disused machinery, unregistered Vehicles, machinery or Vehicle parts; or
- any other condition that is detrimental to the general amenity of the neighbourhood in which it is located.

### 6.3 Vacant Land and Abandoned Buildings

- (a) An Owner of any vacant Land must not allow the vacant Land to become unsafe.
- (b) An Owner of a Building must not allow the Building to become Dilapidated or fall into disrepair so as to become unsafe.
- (c) Where a Building is deemed unsafe Council can issue a Notice to Comply to either:
  - (i) secure the Building to prevent access; or
  - (ii) secure the site to prevent access to the Building and all, or a portion, of the Land surrounding the Building.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**GUIDANCE NOTE:**

For the purposes of Clause 6.3(b), circumstances in which a Building would be classified as unsafe might include, but not limited to:

- where access to the Building is available;
- where windows and doors are either missing or broken; or
- where there is potential for parts of the external or internal structures to collapse or fall due to disrepair.

#### **6.4 Maintenance of Private Drains and Stormwater Retention Systems**

Each of the Owner and the Occupier of Land must ensure that any drain or stormwater retention system on the Land that is not vested in Council or another public authority is operated and maintained so that it is fit for purpose.

#### **6.5 Obstruction of Sign or Signal on a Road**

Each of the Owner and the Occupier of Land must ensure that no:

- (a) tree, hedge, plant or vegetation of any kind grows; or
- (b) structure of any kind is constructed or placed,

so that it obstructs the view of a Motor Vehicle, Sign or Signal on a Road by any person using that Road.

#### **6.6 Overhanging or Encroaching Vegetation**

Each of the Owner and the Occupier of Land must not cause or allow any tree, hedge, plant or vegetation of any kind to:

- (a) overhang or encroach on any Road, Footpath or Nature Strip at a height of less than 2.5 metres; or
- (b) otherwise obstruct any Road, Footpath or Nature Strip.

#### **6.7 Shipping Containers**

Each of the Owner and the Occupier of Land in a Residential Area must ensure that no shipping container is stored or placed:

- (a) on vacant Land;
- (b) in front of any dwelling on the Land, or between the dwelling and the Road abutting the Land frontage;
- (c) within five (5) metres of any dwelling on any other Land;
- (d) for more than 14 consecutive days; or

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (e) for more than 21 days in any calendar year,  
without a Permit.

**GUIDANCE NOTE:**

A Permit under this Local law is not required if a Permit has been issued either under the *Planning and Environment Act 1987* or the *Building Act 1993*.

**6.8 Heavy Vehicles**

A person must not, without a Permit, park, keep, store, repair or allow to remain any heavy Vehicle on any private Land in a Residential Area.

**GUIDANCE NOTE:**

A Permit is not required if a Permit has been issued under the *Planning and Environment Act 1987* or if the activity is an exempt activity under the Scheme.

**6.9 Audible Alarms**

Each of the Owner and the Occupier of any Land must ensure that no audible alarm that is installed on the Land can be heard continuously beyond the boundary of such Land within any Residential Area or Commercial Area for more than ten (10) minutes, or intermittently for more than ten (10) minutes in total within a one (1) hour period.

**6.10 Camping on Private Land**

- (a) A person must not, without a Permit, occupy a Caravan or any other temporary structure on private Land for more than seven (7) days within any 28 day period, or for more than 14 days in any calendar year.
- (b) The Owner or the Occupier of Land must not, without a Permit, allow the occupation of a Caravan any other temporary structure on private Land for more than seven (7) days within any 28 day period or for more than 14 days in any calendar year.

**GUIDANCE NOTE:**

This Clause 6.10 does not apply to any private Land that is Caravan park within the meaning of the *Residential Tenancies Act 1997*.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 6.11 Recreational Vehicles

A person must not, without a Permit, use a Recreational Vehicle, or allow a Recreational Vehicle to be used, on private Land:

- (a) in a Residential Area; or
- (b) within 500 metres of any dwelling on property other than the property on which the Recreation Vehicle is being used; or
- (c) between the hours of sunset and sunrise each day.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 7 - WASTE MANAGEMENT

### 7.1 Septic Tank Systems

The Owner of Land upon which a Septic System is installed and used which does not require, or is not the subject of a permit under the *Environmental Protection Act 1970* must:

- (a) ensure that at least once every three (3) years it is emptied by a licenced Contractor and the contents disposed of at a suitable location;
- (b) provide a report from a licenced Contractor to Council each time it is emptied;
- (c) ensure that effluent from the Septic Tank System is not allowed to discharge off the Land;
- (d) ensure that effluent from the Septic Tank System is not allowed to discharge, run or pond on the surface of the Land;
- (e) ensure that the effluent lines are sufficient to manage the effluent created by the dwelling/s or Building/s on the Land;
- (f) ensure that, on any premises that is subject to a registration under the *Food Act 1984*, a grease trap of sufficient size is installed prior to the Septic Tank System and is emptied as needed to ensure that fats and grease do not enter the Septic Tanks System; and
- (g) ensure that the Septic Tank System is maintained in such a way that it does not allow the ingress of any groundwater, rainwater or surface water runoff.

### 7.2 Reuse of Domestic Grey-Water

A person must not, without a Permit, use untreated greywater to irrigate any Land.

### 7.3 Storage of Trade Waste

Each of the Owner and the Occupier of every commercial premises in a Commercial or Industrial Area must provide trade Waste hoppers, bins, or storage containers for the storage of trade Waste, which are:

- (a) constructed of impervious materials, water tight and pest proof;
- (b) emptied before they become full;
- (c) maintained in a clean, inoffensive and sanitary condition;
- (d) in sufficient numbers to contain all the trade Waste produced on the premises;
- (e) stored in an area and in a manner that is safe and secure; and
- (f) stored in a manner that cannot contaminate or enter the stormwater system.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 7.4 Waste Collection and Disposal

- (a) Each of the Owner and the Occupier of Land must not:
- (i) place out for collection more than one (1) Mobile Waste Bin, one (1) Green Organics Bin and one (1) Recyclables Bin, unless otherwise authorised by Council; or
  - (ii) place out for collection any Mobile Waste Bin, Green Organics Bin or Recyclables Bin in a manner that causes a hazard to a pedestrian, Vehicle or person undertaking the collection and processing of the bins.
- (b) Each of the Owner and the Occupier of any Land must ensure that any Mobile Waste Bin, Green Organics Bin or Recyclables Bin placed out for collection is:
- (i) positioned on the Nature Strip adjacent to the kerb at least one metre from any other item, or at such other place as may from time to time be approved by Council;
  - (ii) placed no earlier than 3:00pm on the day prior to the day of collection, or at such other time determined by Council from time to time; and
  - (iii) removed and returned to the premises on the same day as the collection occurred.
- (c) Each of the Owner and the Occupier of Land must remove any Waste or material which has escaped or spilled onto any Road, Nature Strip or surrounding area from a Mobile Waste Bin, Green Organics Bin or Recyclables Bin, or from any hard Waste, left out by the Owner or Occupier for collection.

## 7.5 Hard Waste Collection

- (a) A person must not place any hard Waste on any Road, Nature Strip or other Public Place unless the person has applied for, and received, a hard Waste collection booking from Council.
- (b) If Council has accepted a household hard Waste collection booking, the person who has secured the booking must ensure that all hard Waste to be collected is placed:
- (i) on the Nature Strip or other location specified by Council not earlier than two (2) days prior to the booking collection date; and
  - (ii) in a neat, tidy and orderly manner.

## 7.6 Interference with Waste

A person must not:

- (a) remove, damage or interfere with a bin, the contents of any bin or any hard Waste placed out for collection; or
- (b) place additional material into a bin, or to hard Waste, that has been placed out for collection by another person.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 7.7 Maintenance of Waste, Organic and Recycling Bins

Each of the Owner and the Occupier of any Land must:

- (a) keep the Mobile Waste Bin, Green Organics Bin and Recyclables Bin allocated to their premises in a clean, inoffensive and sanitary condition;
- (b) ensure that any area where the Mobile Waste Bin, Green Organics Bin and Recyclables Bin are stored between collections is kept in a clean, inoffensive and sanitary condition; and
- (c) ensure that the Mobile Waste Bin, Green Organics Bin and Recyclables Bin, when placed for collection and containing Waste, are capable of being, and are, kept closed at all times, except when items are being deposited in or removed from them.

## 7.8 Street Bins and Park Bins

A person must not deposit any household Waste, green Waste, trade Waste or commercial Waste into any street bin or park bin provided by Council.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 8 - ANIMALS

### 8.1 Number of Animals

- (a) The Owner or Occupier of any Land must not, without a Permit:
- (i) keep or allow to be kept, more than 4 different types of Animals on premises in a Residential Area at any one time; and
  - (ii) keep or allow to be kept any more in number for each type of Animal as set out in the following table; or

Animal	Residential Area	Rural area up to 2 hectares	Rural Area 2 to 4 Hectares	Rural Area over 4 Hectares
Dogs	2	2	2	5
Cats	2 or 3 if all desexed	2 or 3 if all desexed	2 or 3 if all desexed	5
Budgerigars, canaries or finches	50	50	50	No Local Law Permit Required
Pigeons	10	30	60	100
Racing Pigeons	0	60	100	No Local Law Permit Required
Cockatoo / Galah (caged)	0	0	2	No Local Law Permit Required
Fowls	5	20	30	No Local Law Permit Required
Roosters	0	0	1	No Local Law Permit Required
Pheasants	0	5	10	No Local Law Permit Required
Other poultry (including ducks, geese, turkey, guinea fowl or similar)	0	10	20	No Local Law Permit Required
Ostriches / Emus / Peacocks / Llama / Alpaca	0	2	6	No Local Law Permit Required
Sheep	0	2	4	No Local Law Permit Required
Goats	0	2	4	No Local Law Permit Required
Horses	0	2	4	No Local Law Permit Required
Pigs	0	0	2	No Local Law Permit Required
Cows	0	0	2	No Local Law Permit Required
Other primary production Animals	0	0	0	No Local Law Permit Required
Ferrets / Guinea pigs / Rabbits or Mice	3	6	8	No Local Law Permit Required

- (iii) any other Animal that is not specified in the above table.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (b) Clause 8.1 does not apply to Animals kept and used in accordance with the Scheme.

## 8.2 Progeny of Animals

For the purpose of calculating the number of Animals being kept for the purposes of Clause 8.1, the progeny of any dog or cat lawfully kept will be exempt for a period of 3 months after their birth, and the progeny of any sheep, goats, horses, cows or other primary production Animals will be exempt for a period of 6 months after their birth.

## 8.3 Nuisances

- (a) The Owner or Occupier of any Land where any Animal is kept must ensure that the keeping of the Animal does not create a nuisance.
- (b) The Owner or Occupier of any Land where any Animal is kept must ensure that all Animal litter and Refuse and rubbish associated with the keeping of the Animal is disposed of in such a manner so as not to create a nuisance.

### GUDIANCE NOTE:

For the purposes of Clause 8.3, circumstances in which the keeping of an Animal constitutes a nuisance may include, but is not limited to:

- when the Animal makes noises or smells that unreasonably adversely affect the peace, comfort or convenience of any person on any other premises; and
- when the Animal produces an unreasonable accumulation of excrement, whether on the keeper's premises or on any other premises.

## 8.4 General Provisions

The Owner or Occupier of any Land who keeps any Animal on the Land must:

- (a) keep the area surrounding the kennel, house, aviary, shelter or other enclosure where the Animal is kept well drained;
- (b) keep the Land within three (3) metres of the kennel, house, aviary, shelter or other enclosure in which the Animal is kept free of dry grass, weeds, Refuse, Waste or other material capable of harbouring rodents or other Vermin;
- (c) keep all food for consumption by the Animal in a Vermin proof receptacle;
- (d) remove and place all manure, excrement, Refuse or rubbish produced or accumulated by the Animal, as soon after the production or accumulation as is reasonably practicable in a container:
  - (i) that is sanitary, impervious and Vermin and fly proof; and
  - (ii) the contents of which are removed and disposed of at least once every weeks;
- (e) maintain any kennel, house, aviary, shelter or other enclosure where the Animal is kept in a clean and sanitary condition;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (f) keep the Animal in a manner that does not cause an offensive odour;
- (g) prevent wastewater from:
  - (i) entering the stormwater system; or
  - (ii) discharging on to adjoining premises; and
- (h) not cause, allow or suffer excrement or manure to escape from the premises.

## 8.5 Animal Enclosures

- (a) The Owner or the Occupier of Land must not, within ten (10) metres of a dwelling on other Land, construct or allow to be constructed any enclosure in which poultry is kept, or intended to be kept.
- (b) The Owner or Occupier of Land must keep any Animal on the Land in a kennel, house, aviary, shelter or other enclosure that complies with all of the following:
  - (i) prevents, as far as practicable, the wandering or escape of such Animal beyond the boundaries of the Land;
  - (ii) meets the welfare needs of the Animal;
  - (iii) is capable of being readily cleaned;
  - (iv) is maintained in good repair at all times; and
  - (v) meeting any requirements of an Authorised Officer issued in writing from time to time.

### GUIDANCE NOTE:

When assessing whether a kennel, house, aviary, shelter or other enclosure complies with Clause 8.5 the Authorised Officer may consider:

- the height of any kennel, house, aviary, shelter or other enclosure;
- the location of any kennel, house, aviary, shelter or other enclosure having regard to:
  - the distance from the dwelling on the Land;
  - the distance from any neighbouring dwelling;
  - the amenity of the surrounding area; and
  - the size of any kennel, house, aviary, shelter or other enclosure and its adequacy to house the proposed number and type of Animals;
- the security of any kennel, house, aviary, shelter or other enclosure; and
- the nature of the materials used in any kennel, house, aviary, shelter or other enclosure and the ability of such material to be readily cleaned.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 8.6 Stables

A person must not, without a Permit, construct a stable on any Land:

- (a) within five (5) metres of any Road;
- (b) within two (2) metres of the boundary of any adjoining Land; or
- (c) within ten (10) metres of any dwelling on any adjoining Land.

## 8.7 Dog Excrement

- (a) A Person in charge of any dog must not allow any part of the excrement of the dog to remain on any Public Place.
- (b) A Person in charge of any dog in a Public Place must carry a Litter Device suitable to remove any excrement left by the dog and must produce such Litter Device upon request of any Authorised Officer.

## 8.8 Livestock

- (a) The Owner or the Occupier of Land on which Livestock is kept must ensure that the Land is adequately fenced so as to prevent the escape of the Livestock.
- (b) A person must not permit Livestock which they own or have under their control to wander at large or roam on any Public Place.
- (c) A person must not, without a Permit, graze Livestock on any Road.
- (d) Subject to Clause 8.8(e), a person must not, without a Permit, move Livestock on any Road.
- (e) A person who is in charge of the movement of Livestock on any Road does not require a Permit if they:
  - (i) 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;
  - (ii) ensure Livestock are only to be on Road for the minimum time it reasonably takes to move them to their destination;
  - (iii) ensure, as far as possible, the Livestock are moved during daylight hours;
  - (iv) comply with any directions from an Authorised Officer with regard to the route to be followed and the protection from damage likely to be caused by the Livestock to the Road, including native vegetation, construction and drainage on the Road, or private property;
  - (v) ensure the Livestock are supervised and under effective control by a person who is competent in the management of Livestock; and
  - (vi) otherwise comply with all the requirements of any guidelines for the movement of Livestock prepared from time to time by the Roads

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Corporation and with the requirements of the *Road Safety Act* 1986 and any Regulations made thereunder.

- (f) Where a farm property abuts both sides of a dividing Road, the Owner or Occupier of the farming property must ensure that any Livestock that is moved from one side of the farm property to the other are moved directly across the dividing Road unless, in the opinion of an Authorised Officer, it is not practical to do so.

**GUIDANCE NOTE:**

Any person in charge of the grazing of Livestock on a Road with a Permit will generally be expected to:

- ensure that the appropriate temporary fencing is in place to ensure the temporary containment of Livestock to the location where the Permit is issued;
- ensure that adequate warning of the presence of Livestock on the Road is given to other Road users or potential Road users;
- ensure that, apart from any other warnings considered appropriate by the person engaged in such activities, Signs are displayed which conform to guidelines prepared from time to time by the Roads Corporation and with the requirements of the *Road Safety Act* 1986 and any Regulations made thereunder;
- ensure that any Signs and temporary fencing used are removed from the Road at the time of completion of such movement or grazing; and
- ensure, 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 are consistent with the Australian Standards for such purposes and any other Signage necessary for Road safety having regard to topography, conditions, Livestock type and numbers.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 9 - FIRES AND FIRE HAZARDS

This part does not apply on any day or part of a day declared as a total fire ban day, or during the declared fire danger period as stated by the Country Fire Authority. Clause 9.1(a), does not apply to fires that have been authorised by a Permit under and in accordance with the *Country Fire Authority Act 1958*.

### 9.1 Open Air Burning

A person must not, without a Permit, light or allow to remain alight an Incinerator or a fire in the open air unless the Incinerator or fire is lit:

- (a) in a Farming Area, for farming purposes;
- (b) outside of the boundaries of the areas of the maps incorporated into this local law from time to time and the fire is for fire prevention or fuel reduction purposes and meets the following criteria;
  - (i) only dry garden waste, leaves, twigs, branches and timber are allowed to be burned
  - (ii) a minimum three (3) metre firebreak around and above the fire is provided
  - (iii) the maximum quantity of fuel to be burnt does not exceed one (1) cubic metre
  - (iv) the burning can only commence after 9.00am and must be completed and fully extinguished by 3.00pm that same day;
  - (v) sufficient water and equipment to extinguish the fire is provided and
  - (vi) whilst the fire is alight an adult must be in attendance at all times.
- (c) in a Purpose Built Outdoor Cooking and/ or Heating Device; or
- (d) to use a trade tool for and in accordance with its designed purpose.

#### GUIDANCE NOTE:

For the purposes of Clause 9.1, circumstances where a Permit may be issued include but are not limited to:

- where an Authorised Officer forms the opinion that any of the following applies:
  - the nature, volume, or location or the material to be burnt is such that its disposal by any other means is unsafe;
  - there is no reasonable alternative method available for the disposal of the material proposed to be burnt; or
  - it is necessary to burn the material in the interests of public safety.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- Where the proposed fire is within the boundaries of the areas of the maps incorporated into this local law from time to time if the above apply and the following can be met:
  - the provision of a minimum three (3) metre firebreak around and above the fire;
  - that the maximum quantity of fuel to be burnt does not exceed one (1) cubic metre or ten (10) cubic metres if the fire is for fuel reduction burning and is undertaken on land exceeding four (4) hectares and by a sporting organisation eg sport grounds, golf course, tennis courts etc.
  - that there is sufficient provision of water and equipment to extinguish the fire; and
  - that the fire is attended by an adult at all times it is alight; or
- when the fire is to be used for public entertainment.

## 9.2 Type of Waste that cannot be burnt

A person must not light or allow to remain alight an Incinerator or a fire in the open air for the purpose of burning:

- (a) household Refuse;
- (b) industrial, commercial or trade Waste; or
- (c) tyres or other noxious materials.

## 9.3 Direction by Authorised Officer

A person who has lit, or has allowed to be lit or to remain alight, an Incinerator or a fire in the open air contrary to this Clause 9 must extinguish the fire immediately on being directed to do so by an Authorised Officer.

### GUIDANCE NOTE:

Where a person fails to comply with a direction given under Clause 9.3:

- the Authorised Officer or his/her agent may enter upon the premises to which the direction relates and do any act, matter or thing which the person was directed to do; and
- the expenses of doing such act, matter or thing, will be borne by, and may be recovered by Council from the person given the direction.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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# Schedule 1 Notice to Comply

## Notice to Comply

Moorabool Shire Council General Local Law 2019 – Clause 2.5.2

<b>Notice No.</b>	[ ]	<b>Date of Issue</b>	[ ]
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To:

<b>The [Owner] [Occupier]</b>	
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Of:

<b>Address</b>	
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I have reason to believe, from a recent inspection of Land at (Insert Address) (**Land**), that the Land is being kept in a manner that contravenes clause (insert clause) of the Moorabool Shire Council General Local Law 2019 (**Local Law**) by:

Specify the act, omission, matter or thing that constitutes the contravention	
---	--

In order to remedy this contravention you must:

Specify the works required to correct the contravention	
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The works required must be completed by the following date:

Specify the date by which the works required must be done	
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Authorised Officer's details:

Signature of Authorised Officer	
Name of Authorised Officer	

### Failure to Comply

If you fail to comply with this Notice to Comply:

1. it is an offence under clause 2.5.1 of the Local Law, the maximum penalty for which is 20 Penalty units; and
2. Council may, pursuant to section 225 of the *Local Government Act* 1989, carry out the work required by this Notice to Comply and recover the cost of doing so from you.

### Review

You may apply for a review of this Notice to Comply under clause 2.5.4 of the Local Law. An application for review of the Notice to Comply must be made in writing and must be made before the date by which the works required must be done (as shown above).

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## Schedule 2 Penalties

Clause	General Description	Maximum Penalty
	<b>Part 3 - Protection and Management of Council Assets and Infrastructure</b>	
3.2	Requirement to maintain the nature strip	10
3.3 (c)	Requirement to notify Council	5
	<b>Part 4 - Building Sites</b>	
4.6(a)	Requirement to provide a site sign	10
4.6(b)	Requirement to ensure that the building site sign is updated in light of any changes	5
	<b>Part 5 - Activities and Behaviour on Roads, Council Land, Municipal places and public places</b>	
5.1(a) to (i)	Requirements on persons to behave in certain ways in a Municipal Place	10
5.2(c)	Requirements re-entry and remaining in a Municipal Place	10
5.3(a) to (d)	Requirements on persons to behave in certain ways in a Municipal Building	10
5.4(a) to (n)	Requirements on persons to behave in certain ways in a Municipal Reserve	10
5.5.1(d)	Requirement to remove a sign when requested by an authorised officer or member of the Emergency Services	10
5.5.3 (a) to (c)	Requirement not to camp without a permit on a Road, Council Land or a Municipal Place	10
5.5.4(b)	Requirements not to undertake specific activities with vehicle on any, Council Land or Municipal Place.	10
5.6(b) and (c)	Requirement to hold a permit to either light a fire or play amplified music in a Municipal Place	10
5.7(b)	Requirement to not ride an unregistered recreational vehicle on Council land or a Municipal Place	10
5.8(a)	Requirement on a person not to abandon a shopping trolley on any Road, Council land or Municipal Place	10
5.9(a) and (b)	Requirements on persons with regard to the use and purchase of a Parking Permit	10

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Clause	General Description	Maximum Penalty
5.10	Requirement that a person must not without a permit collect fire wood from any Road, Council Land or Municipal Place	10
5.11(d)	Requirements with regard to a persons consumption and possession of alcohol in an Alcohol Restriction Area	10
5.12	Requirement to comply with the reasonable direction of an authorised officer or the requirements set out in a sign in a Municipal Place or on Council Land	10
	<b>Part 6 - Land Use and Amenity</b>	
6.1(a) and (b)	Requirement with regard to the positioning and visibility of the property number	10
6.6(a) and 6.6(b)	Requirement on an owner or occupier to ensure that vegetation does not encroach upon or obstruct any Road, Footpath or Nature Strip	10
	<b>Part 7 - Waste Management</b>	
7.5(a) and (b)	Requirements on a person with regard to the placement of hard waste for hard waste collection	10
7.8	Requirement that a person does not deposit any residential, green, trade or commercial waste into a street or park bin.	10
	<b>Part 8 - Animals</b>	
8.7(a) and (b)	Requirement on the person in control of a dog to not allow any excrement of the dog to remain on and Road, Council Land or Public Place and to carry a suitable litter device at all times.	10

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## Schedule 3      Infringement Penalty Units

Clause	General Description	Infringement Penalty Unit
	<b>Part 2 - Administration and Enforcement</b>	
2.2.3	Requirement to comply with the conditions of a permit	5
2.5.2	Requirement to comply with a notice to comply	5
	<b>Part 3 - Protection and Management of Council Assets and Infrastructure</b>	
3.1(a), (b), (c), (d) and (e)	Requirement that a person must not without a permit destroy, damage, deface, interfere with, excavate or tap into any council land or asset	2
3.2 (a) and (b)	Requirement to maintain the nature strip	2
3.3(a)	Requirement to obtain an asset protection permit	5
3.3(b)	Requirement to notify Council	1
3.3(c)	Requirement to repair or reinstate any damage to council asset or infrastructure	5
3.4	Requirement not to discharge of any substance other than stormwater into the councils stormwater network	5
3.5(a)	Requirement to ensure that vehicle access and egress is only via a properly constructed and approved access point	2
3.5(c)	Requirement to obtain a permit to construct remove or alter a vehicle crossing	5
	<b>Part 4 - Building Sites</b>	
0	Requirement to minimise stormwater pollution	3
4.2	Requirement to contain Building Works within Building Site	3
4.3(a)	Requirement to erect fencing	4
4.3(b)	Requirements with regard to gates and openings	2
4.3(c)	Requirements with regard to reinstatement of fencing	4
4.4(a)	Requirements to provide a suitable rubbish container on site.	4
4.4(b)	Requirements regarding the placement and removal of rubbish containers.	4

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Clause	General Description	Infringement Penalty Unit
4.5	Requirement to control windblown Refuse and dust	3
4.6(a)	Requirement to provide a site sign	2
4.6(b)	Requirement to ensure that the building site sign is updated in light of any changes	1
4.7	Requirement to provide a toilet for workers	5
4.8	Requirements regarding hours of operation	4
4.9	Requirement to comply with a direction to cease works	5
	<b>Part 5 - Activities and Behaviour on Roads, Council Land, Municipal Places and Public Places</b>	
5.1(a) to (i)	Requirements on persons to behave in certain ways in a Municipal Place	2
5.2(c)	Requirements re-entry and remaining in a Municipal Place	2
5.3(a) to (d)	Requirements on persons to behave in certain ways in a Municipal Building	2
5.4(a) to (n)	Requirements on persons to behave in certain ways in a Municipal Reserve	2
5.5.1(a)	Requirement to hold a permit to undertake a commercial activity	4
5.5.1(b)	Requirement not to commission another to breach clause 5.5.1 a)	5
5.5.1(c)	Requirement with regard to the placement of Signs	4
5.5.1(d)	Requirement to remove a sign when requested by an authorised officer or member of the Emergency Services	2
5.5.2(a)	Requirement to obtain a permit prior to undertaking works or obstructing access on a road, Council Land or Municipal Place	4
5.5.2(b)	Requirement to undertake any works to the standard specified by council	4
5.5.3 (a) to (c)	Requirement not to camp without a permit on a Road, Council Land or a Municipal Place	2
5.5.4(a)	Requirements not to undertake specific activities with vehicle on any Road, Council Land or Municipal Place.	2
5.5.4(b)	Requirements not to undertake specific activities with vehicle on any, Council Land or Municipal Place.	4
Governance	Community <i>Local Law</i> No 1. (2017)	****/**** Adopted by Council: 00 January 201*

Clause	General Description	Infringement Penalty Unit
5.6(a)	Requirement to hold a permit to ride or drive a vehicle in a municipal place	2
5.6(b) and (c)	Requirement to hold a permit to either light a fire or play amplified music in a Municipal Place	2
5.7(a)	Requirement to hold a permit to use a recreational vehicle on council land or Municipal Place	5
5.7(b)	Requirement to not ride an unregistered recreational vehicle on Council land or a Municipal Place	2
5.7(c)	Requirement on the owner of an unregistered recreational Vehicle not to knowingly allow a person to ride the vehicle on Council land or a Municipal Place	4
5.8(a)	Requirement on a person not to abandon a shopping trolley on any Road or Council land.	2
5.8(b)	Requirement on a retailer to not make a shopping trolley available for use unless it has a locking mechanism attached	5
5.9(a) and (b)	Requirements on persons with regard to the use and purchase of a Parking Permit	2
5.10	Requirement that a person must not without a permit collect fire wood from any Road, Council Land or Municipal Place	2
5.11(d)	Requirements with regard to a persons consumption and possession of alcohol in an Alcohol Restriction Area	2
5.12	Requirement to comply with the reasonable direction of an authorised officer or the requirements set out in a sign in a Municipal Place or on Council Land	2
<b>Part 6 - Land Use and Amenity</b>		
6.1(a) and (b)	Requirement with regard to the positioning and visibility of the property number	1
6.2	Requirement to ensure that land is kept in a manner that it is not unsightly	4
6.3(a)	Requirement on an owner to not allow any vacant land to become unsafe	5
6.3(b)	Requirement on an owner of a building to not allow that building to become Dilapidated or unsafe	5
6.4	Requirement that the owner or occupier ensure that any drain or stormwater retention system is maintained and fit for purpose	4
Governance	Community <i>Local Law</i> No 1. (2017)	****/**** Adopted by Council: 00 January 201*

Clause	General Description	Infringement Penalty Unit
6.5(a) and (b)	Requirement that any owner or occupier ensure that any vegetation or structure does not obstructs the view of a motor vehicle, sign or signal on a Road of any person using that Road	2
6.6(a) and (b) and b)	Requirement on an owner or occupier to ensure that vegetation does not encroach upon or obstruct any Road, Footpath or Nature Strip	2
6.7(a)	Requirement that the Owner or Occupier of land in a Residential Area must hold a permit to store or place a shipping container	5
6.8	Requirement to hold a permit to park, keep, store or allow to remain a Heavy Vehicle on any Land within a Residential Area	4
6.9	Requirement with regard to the audibility of audible alarms in a Residential and Commercial Areas	2
6.10(a)	Requirement that a person in certain circumstances must hold a permit camp on private land	2
6.10(b)	Requirement that the Owner or Occupier of Land in certain circumstances must hold a permit to allow camping on private land	4
6.11(a), (b) and (c)	Requirement that a person in certain circumstances must hold a permit to use allow the use of a recreational vehicle on private land	3
<b>Part 7 - Waste Management</b>		
7.1(a) to 7.1(g)	Requirements on the owner of land to ensure that septic tanks are maintained in specific ways	4
7.2	Requirement that a person hold a permit to irrigate land with untreated grey water	4
7.3	Requirement that the owner and occupier of a commercial business in a commercial area provide and maintain suitable and sufficient containers for the storage of waste	2
7.4(a), (b) and (c)	Requirements on the owner and occupier of any land with regard to the type, number, placement and removal of refuse and recycling bins	2
7.5(a) and (b)	Requirements on a person with regard to the placement of hard waste for hard waste collection	2
7.6(a)	Requirements on a person not to remove, damage or interfere with any hard waste placed out for collection	2

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Clause	General Description	Infringement Penalty Unit
7.6(b)	Requirement not to place additional material in a bin or a hard waste collection placed out by another person	2
7.7(a) and (b)	Requirement that the owner or occupier ensure that their bins and their bin storage area are kept in a clean, inoffensive and sanitary condition.	2
7.7(c)	Requirement that the owner or occupier ensure that any bin is covered by a lid at all times.	2
7.8	Requirement that a person does not deposit any residential, green, trade or commercial waste into a street or park bin.	2
	<b>Part 8 - Animals</b>	
8.1(a)	Requirement that the owner or occupier hold a permit to keep specific types and numbers of animals.	4
8.3(a) and (b)	Requirement that the owner and occupier of any land do not allow any animal or the keeping of that animal to cause a nuisance	2
8.4(a) to (h)	Requirement on the owner or occupier of any premises to keep their animals and maintain their land to specific standards	2
8.5(a) and (b)	Requirements on the owner and occupier of premises as to where animal enclosures must be sited and what standards they must meet	2
8.6(a), (b) and (c)	Requirements as to where a person can construct a stable	4
8.7(a) and (b)	Requirement on the person in control of a dog to not allow any excrement of the dog to remain on and Road, Council Land or Public Place and to carry a suitable litter device at all times.	2
8.8(a)	Requirement that the owner and occupier premises on which livestock are kept is adequately fenced	4
8.8(b)	Requirement that a person must not allow livestock to wander or roam on any Road or Council Land	3
8.8(c) and (d)	Requirement that a person must not without a permit graze or move livestock on a Road	4
8.8(f)	Requirement that livestock are moved directly across the road.	2
	<b>Part 9 - Fires and Fire Hazards</b>	

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Clause	General Description	Infringement Penalty Unit
9.1	Requirement that a person not light a fire or allow a fire to remain alight unless a permit is obtained.	4
9.1(a) to (c)	Requirement that a person not light or allow to remain alight specific types of refuse	5
9.1(b)3	Requirement that a person who has lit, or allow to remain alight a fire must extinguish it if directed to do so by an Authorised officer	4

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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# Attachment - Item 11.2.1b

# Moorabool Shire Council

## Local Law Community Impact Statement – December 2108

Proposed: Local Law

*Moorabool Shire Council*

## Local Law Community Impact Statement

*Moorabool Shire Council Community Local Law No. 1 2019*

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Council provides the following information to the community in respect of the proposed Local Law.

### PART A – General comments

All Councils in Victoria have a form of local regulation called local laws. Councils' local law-making powers come from the Local Government Act 1989 (*the Act*). The original intention underpinning the capacity of Councils to make local laws was to provide the ability for each council to have controls that reflected the different circumstances and objectives of each council and to provide a capacity for councils to individually tailor requirements in response to how things were happening in their municipalities.

The current local law in Moorabool is the Moorabool Shire General Local Law 2010, which expires in 2020 (*the current Local Law*). Council has determined that the current Local Law should be reviewed prior to the 2020 expiry date to ensure that it remains relevant to Council's growing area and changing population.

The review commenced in 2017 and has involved officers working together to discuss the issues that they see as ones that need managing into the future to ensure that Moorabool Shire is maintained as a desirable place to live, work and visit.

The proposed Local Law has been reviewed by a solicitor.

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### Part B – Overview of proposed Local Law

The proposed Local Law is being made under section 111(1) of the Act and will operate throughout Council's municipal district.

The proposed Local Law, to be known as the Moorabool Shire Council Community Local Law No. 1 2019, will commence on the day following notice of its making being published in the Victoria Government Gazette and, unless it is revoked earlier, will expire 10 years after commencement.

On commencement of the proposed Local Law, the current Local Law will be revoked.

The objectives of the proposed Local Law remain essentially the same as those of the current Local Law. The objectives provide for the peace, order and good government of the Municipal District by managing, regulating and controlling activities and uses on any Land to:

- (a) Promote a physical and social environment free from hazards to health or public safety, in which the residents of the Municipal District can enjoy a quality of life that meets the general expectations of the community;

- (b) Prohibit, regulate and control activities or behaviour which may be dangerous, or detrimental to the quality of life and the environment of the Municipal District or which could compromise public safety, Council Land or assets;
- (c) Preserve and enhance amenity, neighbourhood character, health and public safety within the Municipal District by regulating certain activities within the Shire;
- (d) Protect assets vested in, controlled or owned by Council;
- (e) Protect the safety of Road users and the amenity of the Municipal District and provide for the fair and equitable use of Council Land;
- (f) Control the consumption and possession of Alcohol in a Public Place, where such consumption or possession may interfere with the amenity and enjoyment of the Public Place by the community;
- (g) Control the impact of the keeping of Animals on the community and the environment; and
- (h) Regulate the impact of business activities on the environment, public health and amenity.

Proposed changes brought about by the proposed Local Law are not substantial and do not impact on the general purpose and purport of the current Local Law. The opportunity has been taken to improve clarity and remove clauses which might encroach on the field covered by other legislation, such as the Road Safety Road Rules 2017 and the Environment Protection Act 1970.

Under section 223 of the Act, Council is required to give public notice of the proposed Local Law and invite submissions for a period of at least 28 days.

The statutory consultation period will run from 21 June 2018 for 45 days and close on 5 August 2018.

Anyone who makes a written submission can request to be heard in support of their submission at the Ordinary Council Meeting which considers the making of the proposed Local Law, details of which will be provided.

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## Part C – Main changes to the Local Law

All provisions of the current Local Law have been reviewed. Substantive changes are outlined in the following paragraphs. When reference is made to a clause being amended or otherwise modified, reference is being made to the substantive change to a clause in the current Local Law brought about by the proposed Local Law.<sup>1</sup> All references to clauses below are references to clauses of the proposed Local Law.

### Numbering

The proposed Local Law adopts a new numbering system based on the Part in which a clause appears instead of being continuous. The order of clauses has been rearranged but the grouping of clauses remains essentially the same.

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<sup>1</sup> Strictly speaking the current Local Law is being revoked rather than amended. For the sake of convenience, clauses in the current Local Law are being referenced as if they are changing rather than being replaced.

## Definitions

Various definitions have been amended. Terms which have been amended are as follows:

- 'authorised officer';
- 'asset protection permit bond';
- 'building work';
- 'Council Land';
- 'footpath';
- 'graffiti';
- 'hard waste';
- 'itinerant trading';
- 'municipal place';
- 'public place';
- 'recycle bin';
- 'recreational device';
- 'waste'; and
- 'wheeled toy'.

## Offences

Clause 2.5.1 of the proposed Local Law has been simplified when compared to clause 87 of the current Local Law but its overall effect remains unchanged.

## Notices to Comply

Clause 2.5.2 of the proposed Local Law has been simplified when compared to clause 90 of the current Local Law to remove unnecessary information but its overall effect remains unchanged.

## Appeals

Clause 2.5.4 of the proposed Local Law omits any reference to internal reviews of infringements to avoid any encroachment onto the field covered by the Infringements Act 2006. It has otherwise been simplified when compared to clause 94 of the current Local Law but its overall effect remains unchanged.

## Council policies

Clause 95 of the current Local Law is not replicated in the proposed Local Law because it addresses matters of policy and is therefore unnecessary.

## Delegations

Clause 98 of the current Local Law is not replicated in the proposed Local Law because it replicates Council's power of delegation under the Act and is therefore unnecessary.

## Maintenance of Nature Strips

A new clause 3.2 has been inserted which requires an Owner or Occupier of Land to maintain the Nature Strip adjacent to that land as a means of maintaining the amenity of the Municipal District.

## Asset Protection Permits

A new clause 3.3 has been inserted requiring a person who proposes to undertake Building Work to obtain an Asset Protection Permit, except in certain circumstances. This ensures that Council assets are protected during Building Work and are reinstated in the event of damage at the cost of the persons causing that damage.

## Discharge into Stormwater

A new clause 3.4 has been added which makes it an offence to allow any substance other than stormwater to be discharged into Council's stormwater drainage network. This protects Council's assets and also reduces the risk of damage to private property.

## Vehicle Crossings

Clause 3.5 of the proposed Local Law has been simplified when compared to clauses 71 to 74 of the current Local Law to remove unnecessary information but its overall effect remains unchanged.

## Building Sites

The clauses of the current Local Law addressing the management of Building Sites have been consolidated into Part 4 of the proposed Local Law for ease of reference and interpretation. Some new obligations have been added and some existing obligations have been removed. In particular:

- a new clause 4.1 of the proposed Local Law requires the manager of a Building Site to ensure that the risk of stormwater runoff
- a new clause 4.7 of the proposed Local Law expands on current requirements for a toilet to be provided on a Building Site
- a new clause 4.8 regulating the hours of activity on a building site.
- clause 68 of the current Local Law is not replicated in the proposed Local Law because it encroaches on the field occupied by the Environment Protection Act 1970 as it relates to the control of noise

## Activities and Behaviour on Roads, Council Land, Municipal Places and Public Places

The clauses of the current Local Law addressing activities and behaviour on Roads, Council Land, Municipal Places and Public Places have been consolidated into Part 5 of the proposed Local Law for ease of reference and interpretation. Some new obligations have been added, in particular:

- a new clause 5.6 of the proposed Local Law prevents a person from riding or driving a vehicle or a horse in a Municipal Place except in certain circumstances
- a new clause 5.8(c) of the proposed Local Law prohibits a retailer from making shopping trolleys available for use unless they are fitted with a locking mechanism
- a new clause 5.9 of the proposed Local Law regulates the designation and issuing of residential and commercial parking permits
- a new clause 5.10 of the proposed Local Law prevents a person from collecting, cutting or removing firewood from a Road or Council Land

## Land Use and Amenity

The clauses of the current Local Law addressing Land use and amenity have been consolidated into Part 6 of the proposed Local Law for ease of reference and interpretation with some new clauses and changes, in particular:

- a guidance note added to clause 6.2 of the proposed Local Law replaces clause 17.2 of the current Local Law to provide greater flexibility to Council when determining whether Land is considered Unsightly
- a new clause 6.3 of the proposed Local Law prohibits the Owner of any vacant Land from allowing it to become unsafe. There is no longer a requirement for owners of dilapidated buildings to ensure the dilapidation is rectified so as to not affect either the visual amenity of the premises or the appearance of the building as is required under clause 18 of the current Local Law
- a new clause 6.4 of the proposed Local Law requires the Owner and the Occupier of Land to ensure that private drains and stormwater systems are fit for purpose
- clause 6.6 increases the height at which vegetation on private Land may overhang a Road Footpath or Nature Strip from 3 metres to 2.5 metres
- a new clause 6.7 of the proposed Local Law regulates the placement of shipping containers on Land in a Residential Area
- a new clause 6.9 of the proposed Local Law replaces clause 70 of the current Local Law and simplifies it
- a new clause 6.10 places additional controls on Camping on private Land and restricts the length of time that Camping can be undertaken without a Permit when compared to clause 13 of the current Local Law
- a new clause 6.11 provides more clarity as to when a Permit is needed for use of Recreational Vehicles and where Recreational Vehicles can be used without a Permit when compared to clause 14 of the current Local Law
- Clause 15 of the current Local Law relating to cigarette butt receptacles is not replicated in the proposed Local Law because it encroaches on the field occupied by the Tobacco Act 1987 and Environment Protection Act 1970.

## Mosquito breeding

Clause 65 of the current Local Law relating to mosquito breeding is not replicated in the proposed Local Law because it encroaches on the field occupied by the Public Health and Wellbeing Act 2008.

## Noise from residential and commercial properties

Clauses 67, 68, 69 and 70 have been not been replicated in the proposed Local Law because it encroaches on the field occupied by the Environment Protection Act 1970.

## Septic Tank Systems

A new clause 7.1 has been added to the proposed Local Law which requires the Owner of Land on which a Septic System is installed which is not the subject of a permit under the Environment Protection 1970 to empty and maintain it regularly and to report to Council on those activities.

## Waste Collection and Disposal

A new clause 7.4 has been added to the proposed Local Law which regulates the manner in which the Owner and Occupier of Land must present Mobile Waste Bins, Green Organics Bins and Recyclables Bins for collection.

### Hard Waste Collection

A new clause 7.5 has been added to the proposed Local Law which prohibits a person from placing Hard Waste on a Road, Nature Strip or Public Place unless Council has accepted a booking for collection.

### Maintenance of Waste, Organic and Recyclables Bins

A new clause 7.7 has been added to the proposed Local Law which requires the Owner and Occupier of Land to maintain Mobile Waste Bins, Green Organics Bins and Recyclables Bins to a specified standard.

### Number of Animals

A new clause 8.1 of the proposed Local Law:

- consolidates the categories of Land to which Animal numbers apply to:
  - 'Residential Area'
  - 'Rural Area up to 2 Hectares'
  - Rural area 2 to 4 Hectares
  - 'Rural Area over 4 Hectares'
- varies the number of Animals that may be kept on each category of Land from that contained in clause 38.1 of the current Local Law
- replaces the exemption for Animals kept and used for, or in connection with, farming purposes under clause 38.2 of the current Local Law with a broader exemption in clause 8.1(b) of the proposed Local Law for Animals kept in accordance with the Scheme

### Animal Enclosures

A new clause 8.5(a) prohibits a person from constructing an enclosure in which poultry is kept within 10 metres of a dwelling.

### Stables

Clause 8.6 of the proposed Local Law reduces the restrictions on the construction of stables that appear in clause 40 of the current Local Law.

### Fires and Fire Hazards

Clauses 21.4 and 21.5 of the current Local Law have not been replicated in the proposed Local Law to the extent that they relate to an officer of Victoria Police or a member of the Country Fire Authority to avoid duplication of offences created by the Summary Offences Act 1966 and the Country Fire Authority Act 1958.

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## PART D – Comments on proposed Local Law overall

<p>Measures of success of proposed Local Law</p>	<p>The measure of success of these proposed Local laws will be</p> <ul style="list-style-type: none"> <li>• The success they have in improving the areas that are currently highlighted as of concern</li> <li>• The level of community satisfaction with community safety resulting from the local laws</li> <li>• The ability to deal effectively with justified complaints from the public that cannot be dealt with under other legislation.</li> </ul> <p>Council will measure that success as follows:</p> <ul style="list-style-type: none"> <li>• Recording levels of compliance/non-compliance using inspection data</li> <li>• Review of enforcement actions taken, including official warnings, notices to comply, infringements and direct prosecutions</li> <li>• Volume of complaints.</li> </ul>
<p>Existing legislation which might be used instead</p>	<p>The proposed Local Law will supplement existing State legislation administered and enforced by Council. Council will continue to rely on the provisions of the:</p> <ul style="list-style-type: none"> <li>• Environment Protection Act 1970 with regard to commercial and industrial noise</li> <li>• Public Health and Wellbeing Act 2008 for the control of nuisances where an activity does not require a permit.</li> </ul>
<p>State legislation more appropriate</p>	<p>In circumstances where Council has considered State legislation is more appropriate to deal with particular issues, clauses of the existing Local Law have not been replicated in the proposed Local Law in favour of relying on the State legislation.</p>
<p>Overlap of existing legislation</p>	<p>Existing State legislation deals with the following issues which are also dealt with in some general circumstances by the proposed Local Law:</p> <ul style="list-style-type: none"> <li>• dust and noise – Environment Protection Act 1970</li> <li>• Public Places, Roads and Council Land – Works and/or Usage – Road Management Act 2004</li> <li>• Septic Systems – Environment Protection Act 1970.</li> </ul> <p>Council is satisfied that the provisions of the proposed Local Law supplement the State legislation without duplicating, overlapping or creating any inconsistency.</p>
<p>Overlap of Planning Scheme</p>	<p>Council does not believe that the Local law overlaps, contradicts, duplicates or causes any inconsistency with the Moorabool Planning Scheme.</p>
<p>Risk assessment</p>	<p>Council adopted a general risk based approach to the review and development of the proposed Local Law.</p>



<p>Legislative approach adopted</p>	<p>Council believes in the minimum imposition on the community through the proposed Local Law.</p> <p>The proposed Local Law reflects this approach by providing for:</p> <ul style="list-style-type: none"> <li>• Reasonable penalties</li> <li>• A minimal number of provisions which create offences</li> <li>• Where possible, provision for permits rather than prohibition of activities.</li> </ul> <p>Council has ensured that the proposed Local Law:</p> <ul style="list-style-type: none"> <li>• Is expressed plainly and unambiguously and in a manner which is consistent with the language of the enabling Act and in accordance with modern standards of drafting applying in the State of Victoria</li> <li>• Is not inconsistent with the principles, objectives or intent of the Act</li> <li>• Does not make unusual or unexpected use of the powers conferred by the enabling Act under which the proposed Local Law is made having regard to the general objectives, intention or principles of that Act</li> <li>• Does not embody principles of major substance or controversy or constrain any matter which principles or matter should properly be dealt with by an Act and not by subordinate legislation</li> <li>• Does not unduly trespass on rights and liberties of the person previously established by law</li> <li>• Does not unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions</li> <li>• Is not inconsistent with principles of justice and fairness</li> <li>• Does not overlap or conflict with other statutory rules or legislation.</li> </ul>
<p>Restriction of competition</p>	<p>Council has conducted a review of the proposed Local Law in accordance with the National Competition Principles and believes that, because of the nature and content of the proposed Local Law, and particularly the ability to obtain permits to conduct activities that would otherwise be prohibited, there is no restriction of competition.</p> <p>Even if competition is restricted in some instances, the benefits of the restriction to the community as a whole outweigh the costs.</p> <p>The objectives of the proposed Local Law cannot be achieved in any other way.</p>

<p>Penalties</p>	<p>All offences created under the proposed Local Law attract a maximum penalty of:</p> <p>20 penalty units for an offence 2 penalty units for a continuing offence,</p> <p>with varying infringement penalties prescribed in Schedule 3 to the proposed Local Law.</p> <p>Council has compared the general level of penalties provided for in the proposed Local Law with the Local Laws of other like and neighbouring councils.</p> <p>Council is satisfied that penalties are similar in nature and amount to like and neighbouring councils and are sufficient to act as a deterrent for most offences while also reflecting the seriousness of those offences.</p>
<p>Permits</p>	<p>A number of provisions in the proposed Local Law require Permits to be obtained for a variety of different activities. The Permits are for a variety of reasons including the protection of Council Assets, the management of Council Land and the protection of the local amenity.</p>
<p>Fees</p>	<p>The proposed Local Law allows Council to set fees annually and this will be done as part of the budget process.</p>
<p>Performance standards or prescriptive</p>	<p>Council has adopted a mix of both prescriptive and performance standards in its approach to the proposed Local Law. Within the permit process the ability to demonstrate compliance through performance standards exists as does the ability to obtain one by meeting set standards.</p>
<p>Comparison with neighbouring and like councils</p>	<p>In drafting the proposed Local Law, Council examined the Local Laws of the neighbouring councils.</p> <p>The purpose of conducting this exercise was to assess the similarities and differences between the councils to ensure a best practice approach was adopted in the drafting of the proposed Local Law</p>
<p>Charter of Human Rights</p>	<p>Council considered the relevant provisions of the Victorian Charter of Human Rights and Responsibilities Act 2006 in the development of the Proposed Local Law to ensure that the does not encroach upon a person's basic human rights, freedoms and responsibilities.</p> <p>As a public authority, Council appreciates its obligation to ensure that Local Laws are interpreted and applied consistently with human rights. Council has assessed the proposed Local Law for compatibility with the Charter and has found no inconsistencies.</p> <p>The limitations are legitimate, reasonable and proportionate to the objectives and values of a free and democratic society.</p>
<p>Consultation meetings</p>	<p>Initial consultation has already been undertaken through a 'have your say' campaign.</p> <p>Further direct consultation will occur with residents, stakeholders and local businesses to ensure that they are able to have input into the review process.</p>

Submissions	A submission process will be conducted in accordance with the legislative requirements prescribed under Section 223 of the Act.  In summary, that process requires Council to publish a public notice calling for written submissions in relation to the proposed Local Law. Those submissions must then be considered by Council before it decides whether to make the proposed Local Law.
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# Attachment - Item 11.2.1c

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
29/06/2018	Resident	<p>I have just read the proposed amendments to council by laws.</p> <p>I have a question regarding both the current and proposed laws in regard to nature strip maintenance. Whose responsibility is it to maintain the nature strip when a block has been subdivided and there is a house in front (directly abutting the. Nature strip), and a house at the rear not abutting the nature strip. The front and rear house share a joint driveway.</p> <p>The rear house backs onto the stretch of land near the Ballan golf course and river and partly maintains the grass close to the back fence of the property.</p> <p>I.e. is the rear house also responsible for the nature strip?</p>	<p>Currently the Local Laws are silent on the issue of nature strips and as such people are not under any legal obligation to maintain the nature strip at the front of their property. However, the vast majority of people do maintain the nature strip so as to maintain the amenity of their home and the area in general.</p> <p>The new Local Law will place an obligation on the landholder adjacent to the nature strip to maintain it to a specific standard. This will have little impact on most people as they already maintain the nature strip however it will allow council to ensure that those who currently do not maintain the nature strip do.</p>
2/07/2018	Business	<p>In general I support the shires with all these amendments. Anything to help make our the town look clean and well maintained I think is good policy.</p>	<p>Noted.</p>
3/07/2018	Resident	<p>I would like to make comment on Land Use &amp; Amenity 6.1 (a &amp; b) – 6.11 (a &amp; b) in particular 6.3b – Requirement on a land owner of a building to not allow that building be Dilapidated or unsafe.</p> <p>In the draft you have 5 Infringement Penalty Points associated with this topic, however in your last Local Laws it was 20 Infringement Penalty Points. I believe the 20 Infringement Penalty Points need to be associated with this point, the higher the points, the higher the fine, the more likely the owner would not let the building fall in to a dilapidated &amp; unsafe state.</p>	<p>Thank you for your comments. All comments will be considered by council after the completion of the consultation period.</p>
4/07/2018	Business	<p>1/ Operating of recreational vehicles on private land should include 500m from any dwelling or business</p> <p>2/ Keeping of animals on rural land could be deceiving. For example where I live is a rural area, (Rural Conservation Zone 1) planning scheme, only a maximum of two animals can be kept without a permit, regardless of the size of land.</p>	<p>Thank you for your comments. All comments will be considered by council after the completion of the consultation period.</p>

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
12/04/2018	Defence	<p>3.2 Maintenance of Nature Strips - An Owner or Occupier of Land in a Residential Area must ensure that the Nature Strip adjacent to that Land:</p> <p>(a) is maintained in a neat and tidy condition; and</p> <p>(b) does not contain grass, stubble or undergrowth exceeding 150mm in height.</p> <p>GUIDANCE NOTE: To undertake any works other than mowing, weeding and general lawn and vegetation maintenance a Permit is required under Clause 3.1.</p> <p>The nature strip on the front of my property is approx. 825m<sup>2</sup> which is larger than most new developments in the Ballan area. Are Council going to reimburse property occupiers for their time and machinery running costs by way of financial reimbursement or reduced rates to maintain Council land?</p> <p>If Council are not going to reimburse property occupiers can they fence off the land and make alterations (plants, trees etc) to protect their time and financial investment? It would appear that more Council resources will be required to enforce the proposed changes.</p> <p>How do Council plan to enforce this proposed local law change and how will it be funded?</p>	Thank you for your comments. All comments will be considered by council after the completion of the consultation period.
28/07/2018	Resident	Happy for Council to go ahead with all changes made in the new draft Community Local Law 2018.	Noted.
12/07/2018	Resident	<p>My feedback is that rural properties over 4 hectares should be exempt from the following,</p> <p>Section: 6.7 Shipping containers: People with larger properties often require additional storage for the additional equipment and maintenance materials that is required to maintain a property of larger size as per Moorabool shores current bylaw "unsightly land" sections, 17, 17.1, 17.2</p> <p>And also section 6.11 "recreational vehicles" Properties over 4 hectares should be exempt from needing a permit. The use of a motorcycle or quad bike is critical in the maintenance of a larger property and the impact upon neighbouring residents are less likely to occur on properties over 4 hectares.</p>	Thank you for your comments. All comments will be considered by council after the completion of the consultation period.

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
4/08/2018	Resident	<p>Last year the owner of [REDACTED], gave permission to a person to place two shipping containers on the property for the purpose of setting up as a primary residence. This was done without any attempt by the owner to contact myself or any other neighbours to enquire how we might feel about it, let alone without application for permits under the Planning and Environment Act, the Building Act or any authority whatsoever. This person is now residing full time in one of the shipping containers.</p> <p>[REDACTED] and the established driveway onto the property crosses over from [REDACTED]. There is a house in the middle of the property and the shipping containers have been placed between the dwelling and the road abutting the land frontage on [REDACTED]. A vehicle crossover was constructed in a new location on [REDACTED] to enable the shipping containers to be transported onto the property. This now continues to be used as a driveway for everyday use. I believe this was also undertaken without a permit.</p> <p>Power is supplied from the main dwelling via an electrical extension lead. A water tank has been positioned nearby and on occasion I have heard what sounds like a water pump being used. Please see attached photo showing additions to one of the shipping containers, an awning... to make it more homely I assume and a walkway up to the roof upon which a solar panel has been installed. Also on the roof a flue has been fitted from which rising smoke can be seen regularly.</p> <p>In the corner of the property closest to my house a long drop toilet has been constructed on top of which a tin shed has been placed.</p> <p>I commute to and from [REDACTED] for work and as a rate paying owner occupier the situation that has developed next to my home in [REDACTED] is so far from the reason I made that choice.</p> <p>The direct outlook from my home and from the street has degenerated into what resembles a junk yard and seems to be slowly progressing towards a shanty town, the latest addition being a pop top caravan placed in the middle of the 'complex' (not being used as the person's primary residence as the regular smoke emanating from the shipping container indicates). Over the past year the person has been asked to move a trailer from outside the property on [REDACTED] after parking it closer to my</p>	<p>Thank you for your comments. All comments will be considered by council after the completion of the consultation period.</p>

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
		<p>driveway than the driveway he had created for himself and for a period of time had what appeared to be an unregistered [REDACTED] parked outside the property. I shall stop there, for now, for fear of venturing into the realm of superfluous grievances.</p> <p>I consider every aspect of this person taking up residence in this manner as creation of obnoxious real estate that can only have a negative effect on local property values. It is most certainly detrimental to the general amenity of the neighbourhood.</p> <p>I have been prompted to speak up since reading the article about the proposed new laws, having read the draft Community Local Law No. 1 (2018) I can only suggest that part 6.7 should be stricter to prevent the situation outlined above.</p>	
16/07/2018	Resident	<p>I'd like to make a submission on the subject of Camping on private land. As stated in a previous email on the 2nd of July, I am concerned about people setting up camp in caravans and shipping containers on a permanent basis, with no permits, septic, water or power. I believe that the provision for camping on private land is being exploited , for example at [REDACTED], where people have been residing full time for two and a half months. I believe that they intend to remain there permanently in this manner. If they can do it, then what might become of all the other vacant blocks in [REDACTED]?</p> <p>I am a permanent resident of [REDACTED] and am qualified to have observed the continuous, permanent occupation of [REDACTED], with no septic system, water or electricity. This has been the case for two months and the people/person show no sign of leaving. I am aware that my concern is shared by my other neighbours, some of whom are afraid to make a report. Surely this must be contravening Health Regulations? I am asking the Shire to approach Western Water for their opinion.</p>	Thank you for your comments. All comments will be considered by council after the completion of the consultation period.



Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
4/08/2018	Residents	<p>I wish to object to amendments to this draft law, Considering the percentage of territory Moorabool Shire covers, we are not all suburban, we are majority small town communities ie: Greendale, Ballan, Glenmore, Mt Wallace, Mt Egerton, Bungaree, and any other small communities. This change is aimed at the minor with no consideration to the greater area. CAMPING on private property is an Australian pastime. Family CHRISTMAS celebrations and holidays with family, Birthday celebrations. Easter and School Holidays, even Grey Nomad visitors. Families even Grandparents are not being considered. RECREATIONAL VEHICLES are used for maintenance, ease of access and pleasure. Noise and damage is already covered by the Victorian Government Laws. Communities tend to talk to each other, word of mouth and the local law cover these why interfere. CONTAINERS used for dry storage and security are needed for our moist cold weather. They are neat and recycled, another thing not going to the land fill. Up-cycling for habitation is another topic, already under your planning laws. Its time the Moorabool council understands it has care of more than Bacchus Marsh- Melton. The majority of Moorabool is RURAL. We register our objection to this Draft as Voters, with hope this will be tabled. Please register our OBJECTION to this DRAFT LAW.</p>	<p>Thank you for your comments. All comments will be considered by council after the completion of the consultation period.</p>
26/07/2018	Resident	<p>It is pleasing to read that Moorabool Council are considering a new local law to tidy up the residential area and to include the location of Shipping Containers. ██████████ residents commenced corresponding with Council when in 2013 a resident at ██████████, placed a Shipping Container in their front garden and close to the footpath. This remains an absolute 'Eyesore' and my family view it from our Lounge Room window directly opposite at ██████████. Several Councillors and your Officers are aware of this situation and have in fact visited the location of this particular Shipping Container in ██████████. I look forward to a positive outcome surrounding this proposed By-law. I would hope that any By-laws would be retrospective.</p>	<p>Noted.</p>
22/08/2018	Resident	<p>Are people allowed to crush rock their nature strips for extra parking spaces? I see a lot of houses on ██████████ doing this. I haven't seeded my nature strip yet and if putting rocks on is allowed would consider doing this too. People even park small trucks on them. I think it's a really good way to keep the roads free rather than cluttering them up with cars and trucks.</p>	<p>Noted.</p>

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
25/07/2018	Resident	Draft Moorabool Community Local Law 2018 (Local Law Review) -We are happy for Moorabool Council to go ahead with all changes made in the new Draft of Community Local Laws 2018.	Noted.
30/07/2018	Business	<p>Problems regarding the ineffective Moorabool Shire Council fire permit rules governing the burning of large piles of wood on the [REDACTED]. We advised that our [REDACTED] has no problems with the way Council is observing existing council fire permit rules. However, we do have a problem with the size of piles and diameter measurements of wood contained in a pile reiterated by Council again today. [REDACTED] have estimated that we have well over 800 trees on our [REDACTED] and it's not unusual to have 10 fall down each year. Most of our trees have a girth of around 3 metres and a diameter of one metre far exceeding the 20 cm contained in councils rules. Moreover our dried piles of broken up trees can vary up to 150 cubic meters (10 x 6 x 3) this is because we like to burn off two or three piles a year quickly, on the one day so as to obviate any disruption to neighbours, general public and members who want to [REDACTED], all we are running, a non for profit business. It was also mentioned by me that the other [REDACTED] in the Shire of Moorabool don't suffer from any complaints from the public and we do because it's a vendetta against having the [REDACTED]</p> <p>We showed Council a document which reveals how Frankston City Council (and many other councils throughout Australia adopt this policy) directly help a [REDACTED] undertake fuel reduction for larger piles to be burned off. We were informed to contact Council and request that the current fire rules be modified. Council had no objections in the [REDACTED] requesting assistance from CFA to help burn larger piles. Recommendations from Council believe that our club should be more innovative and explore green waste management options. The main emphasis by council is that we need to cover middle ground options and the following was decided:</p> <p>1. [REDACTED] to approach Country Fire Authority in Ballan to supervise and monitor a Burn-off of larger piles by [REDACTED]. We will approach CFA and discuss burning options including verification and meeting with council if agreed by CFA and, 2. Approach Council to have an adjustment to fire permit rules as outlined in the following Frankston City Council fire policy (Note: it is not a shire but a city):</p>	Noted.

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
		<p>FOR Council: Can you help our club and the community in general and amend your fire policy in part, to accord with the following ideal: Commercial Permits to Burn Commercial Permits to Burn are required for any commercial property that may need to undertake fuel reduction works. All general conditions remain the same as residential permits however the permitted size of the fire may be larger if the commercial property is over 10 acres in size.</p> <p>The application fee is non-refundable. Apply for a permit online or in person at any Council Customer Service Centre. Applications for a Permit to Burn have opened on Tuesday 1 May 2018 with all Permits to Burn expiring on 30 November 2018 or at onset of the Country Fire Authority declared Fire Danger Period whichever is sooner. Apply for a Commercial Permit to Burn online for a faster processing time. Burning is not permitted until you receive your permit. Apply for a Commercial Permit to Burn online for a faster processing time. Burning is not permitted until you receive your permit. Online Permit to Burn Commercial permits are required for:</p> <ul style="list-style-type: none"> <li>•Golf courses</li> <li>•Tennis Clubs</li> <li>•Football Clubs</li> <li>•Schools</li> <li>•Any commercial land or property where there is no residential dwelling.</li> </ul> <p>In conclusion, [REDACTED] will approach CFA Ballan and also await Councils response to updating Moorabool Shire fire permit rules. Until then, BGC will be stock piling the remnants of trees opposite [REDACTED] because that's the safest area to pile when fire restrictions come into force this summer.</p>	
20/09/2018	Resident	<p>I'm writing this letter in concern of the amendment to the camping on private property claim. On what basis do these amendments benefit the community? I feel it is a right as a land holder to have fair and reasonable access to property to which you hold a title. This amendment also affects all those who use grey nomads to house sit in rural areas. I see this amendment as an encroachment on our civil rights as land holders and as a rate paying member of your shire I request a response in writing and notification of when this will be discussed at our local council meetings.</p>	<p>Thank you for your comments. All comments will be considered by council after the completion of the consultation period.</p>

Date Received	Business/ Resident	Feedback/Comments/Query Provided	Response Provided
23/07/2018	Resident	<p>I would like to comment on the draft proposal of Community Local Law No. 1, with regard to Clause 6.7 - Shipping Containers. I understand and approve of the objective of the proposed law, to maintain the high standard of amenity within townships of the shire. It is my contention that already existing shipping containers should qualify for permits free of charge, provided they currently located in compliance with the circumstances listed within Clause 6.7 (a) as points (i), (ii) and (iii) and do not spoil the aesthetics of the shire's amenity. Further, it is my opinion that owners of existing shipping containers, provided that these already conform to Council requirements, should be granted permits to retain the said containers, without financial disadvantage (fees), the permit would then override the time restrictions listed as points (iv) and (v) of the draft proposal. Property owners newly applying to place shipping containers on residential properties would need to be subject to a conformity check before a permit is granted, with an appropriate permit fee applicable. I ask that you consider these comments, and await your response with anticipation.</p>	<p>Discussion with resident at the Council offices.</p>

# Attachment - Item 11.2.1d



Community Local Law No.1 2019

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[7099888: 21530383\_1]

Style Definition: TOC 1: Tab stops: 2.72 cm, Left + 15.9 cm, Right,Leader: ...

## Contents

PART 1 - PRELIMINARIES .....	1
1.1 Title .....	1
1.2 Purpose of the Local Law .....	1
1.3 Authorising Provisions.....	1
1.4 Commencement Date .....	1
1.5 Cessation Date.....	2
1.6 Application .....	2
1.7 Revocation of Previous Local Law.....	2
1.8 Definitions.....	3
PART 2 - ADMINISTRATION AND ENFORCEMENT .....	9
2.1 Purpose .....	9
2.2 Permits .....	9
2.2.1 Permit Applications .....	9
2.2.2 Consideration of Permit Applications .....	9
2.2.3 Compliance .....	10
2.2.4 Duration.....	10
2.2.5 Amendment, Cancellation or Correction .....	10
2.2.6 Transferability of Permits .....	11
2.3 Impounding.....	11
2.3.1 Power to Impound.....	11
2.4 Fees.....	12
2.4.1 Setting of Fees and Charges .....	12
2.4.2 Differential or Structured Fees and Charges.....	12
2.5 Enforcement .....	12
2.5.1 Offences .....	12
2.5.2 Notices to Comply .....	12
2.5.3 Power to Act in Urgent Circumstances.....	13
2.5.4 Appeals .....	13
2.5.5 Infringement Notices .....	13
2.5.6 General Penalty at Magistrates' Court .....	14
PART 3 - PROTECTION AND MANAGEMENT OF COUNCIL ASSETS AND INFRASTRUCTURE .....	15
3.1 Protection of Assets and Land .....	15
3.2 Maintenance of Nature Strips .....	15
3.3 Asset Protection Permit.....	15

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
------------	--	-----------	--

3.4	Discharge into Stormwater.....	17
3.5	Vehicle Crossings .....	17
<b>PART 4 - BUILDING SITES .....</b>		
4.1	Protection of Stormwater.....	19
4.2	Containment of Building Works within Building Site.....	19
4.3	Fencing.....	19
4.4	Containment of Refuse .....	20
4.5	Windblown Refuse .....	20
4.6	Building Site Identification Sign.....	21
4.7	Building Site Toilet .....	21
4.8	Hours of Operation.....	22
4.9	Direction to Cease Building Work .....	22
<b>PART 5 - ACTIVITIES AND BEHAVIOUR ON ROADS, COUNCIL LAND, MUNICIPAL PLACES AND PUBLIC PLACES.....</b>		
5.1	Behaviour in Municipal Places .....	23
5.2	Access to Municipal Places .....	23
5.3	Behaviour in Municipal Buildings .....	24
5.4	Behaviour in Municipal Reserves .....	24
5.5	Activities on Roads and Council Land .....	25
5.5.1	Commercial Activities .....	25
5.5.2	Undertaking works or obstruction of access .....	27
5.5.3	Camping.....	27
5.5.4	Use of Vehicles .....	28
5.6	Activities which require a Permit in a Municipal Place .....	28
5.7	Recreational Vehicles on Council Land.....	28
5.8	Shopping Trolleys .....	29
5.9	Parking Permits.....	29
5.10	Roadside Firewood Collections .....	30
5.11	Consumption and Possession of Alcohol .....	30
5.12	Direction by an Authorised Officer in a Municipal Place or on Council Land.....	30
<b>PART 6 - LAND USE AND AMENITY .....</b>		
6.1	Property Numbers .....	31
6.2	Unightly Land.....	31
6.3	Vacant Land and Abandoned Buildings .....	31
6.4	Maintenance of Private Drains and Stormwater Retention Systems .....	32
6.5	Obstruction of Sign or Signal on a Road .....	32
6.6	Overhanging or Encroaching Vegetation.....	32

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
------------	---	-----------	-------------------------------------



6.7	Shipping Containers .....	32
6.8	Heavy Vehicles.....	33
6.9	Audible Alarms .....	33
6.10	Camping on Private Land .....	33
6.11	Recreational Vehicles .....	34
PART 7 - WASTE MANAGEMENT .....		35
7.1	Septic Tank Systems .....	35
7.2	Reuse of Domestic Grey-Water .....	35
7.3	Storage of Trade Waste .....	35
7.4	Waste Collection and Disposal .....	36
7.5	Hard Waste Collection .....	36
7.6	Interference with Waste .....	36
7.7	Maintenance of Waste, Organic and Recycling Bins .....	37
7.8	Street Bins and Park Bins .....	37
PART 8 - ANIMALS .....		38
8.1	Number of Animals.....	38
8.2	Progeny of Animals .....	39
8.3	Nuisances.....	39
8.4	General Provisions .....	39
8.5	Animal Enclosures .....	40
8.6	Stables.....	41
8.7	Dog Excrement.....	41
8.8	Livestock.....	41
PART 9 - FIRES AND FIRE HAZARDS .....		43
9.1	Open Air Burning.....	43
9.2	Type of Waste that cannot be burnt.....	44
9.3	Direction by Authorised Officer .....	44
Schedule 1	Notice to Comply .....	45
Schedule 2	Penalties.....	46
Schedule 3	Infringement Penalty Units .....	48

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
------------	--	-----------	--

## PART 1 - PRELIMINARIES

### 1.1 Title

This Local Law is known as Moorabool Shire Council Community Local Law 2019 No. 1.

### 1.2 Purpose of the Local Law

This Local Law is made for the purposes of providing for the peace, order and good government of the Municipal District by managing, regulating and controlling activities and uses on any Land to:

- (a) Promote a physical and social environment free from hazards to health or public safety, in which the residents of the Municipal District can enjoy a quality of life that meets the general expectations of the community;
- (b) Prohibit, regulate and control activities or behaviour which may be dangerous, or detrimental to the quality of life and the environment of the Municipal District or which could compromise public safety, Council Land or assets;
- (c) Preserve and enhance amenity, neighbourhood character, health and public safety within the Municipal District by regulating certain activities within the Shire;
- (d) Protect assets vested in, controlled or owned by Council;
- (e) Protect the safety of Road users and the amenity of the Municipal District and provide for the fair and equitable use of Council owned Land;
- (f) Control the consumption and possession of Alcohol in a Public Place, where such consumption or possession may interfere with the amenity and enjoyment of the Public Place by the community;
- (g) Control the impact of the keeping of Animals on the community and the environment;
- (h) Regulate the impact of business activities on the environment, public health and amenity; and
- (i) Revoke Council's General Local Law 2010 – General Local Law.

### 1.3 Authorising Provisions

This Local Law is a Local Law made under Section 111(1) of the *Local Government Act 1989* and Section 42 of the *Domestic Animals Act 1994*.

### 1.4 Commencement Date

This Local Law commences operation on the day following the day on which notice of the making of this Local Law is published in the Victoria Government Gazette.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 1.5 Cessation Date

This Local Law ceases to operate on the day which is ten (10) years after the day referred to in Clause 1.4, unless revoked sooner.

### 1.6 Application

- (a) This Local Law applies and has operation throughout the whole of the Municipal District.
- (b) This Local Law does not apply where any act or thing regulated by it is authorised by any Act, other subordinate legislation or the Scheme.
- (c) Council may declare or designate areas within the Municipal District as areas to which specified provisions of this Local Law will apply.
- (d) Where Council declares or designates areas under this Local Law it must ensure that those declared or designated areas are:
  - (i) identified on maps or by a geographic description; and
  - (ii) published on Council's website and available in hard copy at Council's office.
- (e) This Local Law incorporates certain documents containing Council Policy, standards or guidelines that apply to specific uses or activities which are intended to assist in achieving the objectives of this Local Law. These policies, standards and guidelines documents that are incorporated will be available for perusal on Council's website. Council reserves the right to amend these documents at any time.
- (f) It is intended that where an incorporated document is applied to a use or activity a person must comply with all of the requirements specified for that use or activity.
- (g) This Local Law does not apply to any person employed or otherwise engaged by Council when undertaking any activity, or fulfilling any duty, on behalf of Council.

### 1.7 Revocation of Previous Local Law

On commencement of this Local Law, Council's General Local Law 2010 – General Local Law is revoked.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 1.8 Definitions

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

<b>Act</b>	means the <i>Local Government Act</i> 1989, as amended from time to time.
<b>Advertising Sign</b>	means any placard, board, Sign, card or banner, whether portable or affixed or attached to any Land, Building, person, Vehicle or Trailer which: <ul style="list-style-type: none"> <li>a) Provides information about the Occupier of the Land or Building, or a business or industry;</li> <li>b) Advertises goods, services, an event or a competition; or</li> <li>c) Provides directions to the location of property or Land, which is available for pre-sale/lease/rent inspection.</li> </ul> <p>An Advertising Sign can also be a post, placard, bill poster, sticker or other document.</p>
<b>Alcohol</b>	means a beverage intended or used for human consumption, which has an Alcoholic content.
<b>Alcohol Restriction Area</b>	means an area declared by Council as an area in which the consumption of Alcohol is prohibited.
<b>Animal</b>	has the same meaning as in the <i>Summary Offences Act</i> 1966, and includes insects and fish.
<b>Asset Protection Permit</b>	means a Permit issued by Council for the protection of public assets and infrastructure during Building work, in accordance with Clause 3.3 of this Local Law.
<b>Asset Protection Permit Bond</b>	means the sum of money paid or payable, or other guarantee made, to Council in respect to potential loss to Council resulting from Building Works.
<b>Assistance Dog</b>	has the same meaning as in the <i>Equal Opportunity Act</i> 2010.
<b>Authorised Officer</b>	means any person: <ul style="list-style-type: none"> <li>a) appointed by Council as an Authorised Officer pursuant to Section 224 of the Act; and</li> <li>b) a police officer enforcing provisions relating to Alcohol in accordance with Section 224A of the Act.</li> </ul>
<b>Builder</b>	means: <ul style="list-style-type: none"> <li>a) a Building practitioner under the <i>Building Act</i> 1993; and</li> <li>b) an Owner of a Building Site.</li> </ul>
<b>Building</b>	has the same meaning as in the <i>Building Act</i> 1993.
<b>Building Site</b>	means any Land on which the Building Work is being undertaken.
<b>Building Work</b>	has the same meaning as in the <i>Building Act</i> 1993.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Bulk Rubbish Container</b>	means a bin, skip or other container used for the deposit of Waste, but excludes a wheeled Mobile Waste Bin used in connection with Council's Waste collection service.
<b>Busk and Busking</b>	means entertainment that includes playing a musical instrument, singing, conjuring, juggling, mime, mimicry, dance, puppetry, performance art, pavement drawing of any form, recitation and other similar activities.
<b>Camp, Camping</b>	means to erect, occupy or use a tent, any temporary makeshift or similar structure, or to park, occupy or use any Caravan or similar mobile accommodation Vehicle, a Motor Vehicle or Trailer for the purpose of accommodating a person.
<b>Caravan</b>	Includes a Caravan, motorhome, camper van, mobile home or moveable dwelling.
<b>Charity Bin</b>	means a bin or similar structure used by charitable and other organisations for the collection of used clothing or other household goods for recycling purposes.
<b>Chief Executive Officer</b>	has the same meaning as in the Act.
<b>Commercial Area</b>	means an area within a Commercial Zone under the Scheme.
<b>Contractor</b>	means a person who has entered into a written agreement with Council to provide any goods or services or to perform any function.
<b>Council</b>	means Moorabool Shire Council.
<b>Council Land</b>	means all Land: <ul style="list-style-type: none"> <li>a) owned, leased, managed or occupied by Council; or</li> <li>b) vested in, or under the control and management of, Council,</li> </ul> but does not include a Road.
<b>Dilapidated</b>	means a Building that has fallen into a state of disrepair, or that is decayed, deteriorated, broken down or partially ruined through neglect or misuse.
<b>Emergency Service</b>	means any Statutory Authority engaged in the provision of Emergency Services and includes but is not limited to Victoria Police, Ambulance Victoria, Country Fire Authority, Metropolitan Fire Brigade and Victorian State Emergency Service.
<b>Farm Land / Area</b>	means an area within a Farming Zone under the Scheme.
<b>Footpath</b>	includes every Footpath, Land or other place within the Municipal District designed for, and habitually used by, pedestrians.
<b>Graffiti</b>	means inscriptions or drawings scribbled, scratched, sprayed or otherwise applied on any surface.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Green Organics Bin</b>	means a receptacle provided to premises by Council for the purpose of collecting and disposing of household organic material.
<b>Grey-Water</b>	means domestic Wastewater from sources other than a toilet, urinal or bidet (e.g. from showers, baths, spas, hand basins, clothes washing machines, laundry troughs, dishwashers, sinks).
<b>Hard Waste</b>	means any rubbish of a size, shape, nature or volume that cannot be contained in any Mobile Waste Bin, Recyclables Bin or other bin provided by Council in connection with Council's Waste collection service, including any brick, concrete, masonry or engine parts and any other type of rubbish prescribed by Council.
<b>Heavy Vehicle</b>	<a href="#">In relation to a Road</a> has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Incinerator</b>	means a structure, device or piece of equipment which is designed, adapted used or capable of being used for the burning of any material or substance and which is not enclosed in any Building, is not a barbeque and is not otherwise licensed under the <i>Environment Protection Act 1970</i> .
<b>Industrial Area</b>	means an area within an Industrial Zone under the Scheme.
<b>Itinerant Trading</b>	means Selling or hiring, or offering for sale or hire, goods or services from a temporary location, or from a Vehicle or other transport, and includes mobile food vans.
<b>Land</b>	has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> .
<b>Litter Device</b>	means an apparatus for the purpose of removing dog faeces and includes a paper or plastic bag.
<b>Livestock</b>	has the same meaning as in the <i>Impounding of Livestock Act 1994</i> .
<b>Mobile Waste Bin</b>	means a receptacle provided to a premises by Council for the purpose of collecting and disposing of household Waste.
<b>Motor Cycle</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Motor Vehicle</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Municipal Building</b>	means any Building owned, occupied or under the control and management of Council, or any Building declared by a Resolution of Council to be a Municipal Building.
<b>Municipal District</b>	means the Municipal District of Council.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Municipal Place</b>	means an area that is, at some or all times, open to the public (whether or not an admission fee is payable) including a library, Building, golf course, swimming pool, park or recreation centre, which is owned by, or under the control and management of, Council, and includes a Municipal Reserve, or any place declared by a Resolution of Council to be a Municipal Place, but does not include a Road.
<b>Municipal Reserve</b>	means any Land within the Municipal District that is owned by, or under the control and management of, Council and is dedicated or used for cultural, recreational, environmental or entertainment purposes.
<b>Nature Strip</b>	Means the Council Land between the boundary of a property and the <a href="#">Road-trafficable area of the road</a>
<b>Notice to Comply</b>	means Notice to Comply issued in accordance with Clause 2.5.2 of this Local Law.
<b>Occupier</b>	has the same meaning as in the <i>Environment Protection Act 1970</i> .
<b>Owner (in relation to Land or a Building)</b>	means the person who is registered on the relevant Certificate of Title as the Owner or the person who is entitled to exercise any rights of Ownership to the Land.
<b>Owner (in relation to a Motor Vehicle or Trailer)</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .
<b>Owner (in respect of a cat or dog)</b>	has the same meaning as in the <i>Domestic Animals Act 1994</i> .
<b>Penalty Unit</b>	has the same meaning as in Section 110 of the <i>Sentencing Act 1991</i> .
<b>Person</b>	has the same meaning as in the <i>Interpretation of Legislation Act 1984</i> .
<b>Policy</b>	means a Policy adopted by Council from time to time for the purpose of the particular provisions of this Local Law in which the term is used.
<b>Permit</b>	means a written Permit issued in accordance with this Local Law which authorises a specified use or activity and includes an Asset Protection Permit.
<b>Public Place</b>	has the same meaning as in the <i>Summary Offences Act 1966</i> .
<b>Purpose Built Outdoor Cooking and/or Heating Device</b>	includes but is not limited to a: <ul style="list-style-type: none"> <li>a) barbeque or other device used for the sole purpose of cooking food; and</li> <li>b) fire within a brazier or chimney or similar device used exclusively for heating purposes.</li> </ul>

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Recreational Vehicle</b>	means any Vehicle normally used for recreational purposes that may be propelled or operated by internal combustion, steam, gas, oil, electricity or any other power purposes but does not include a human powered Vehicle. Without being exhaustive, it includes a:
	<ul style="list-style-type: none"> <li>a) mini bike;</li> <li>b) trail bike;</li> <li>c) go cart; and</li> <li>d) any other 2 or 4 wheeled Vehicle designed or adapted for recreation.</li> </ul>
<b>Recyclables Bin</b>	means a receptacle provided to premises by Council for the purpose of collecting and disposing of household recyclable material.
<b>Refuse</b>	means all Waste or rubbish produced or accumulated in or on any Land, premises or property.
<b>Residential Area</b>	means an area within a Residential Zone under the Scheme.
<b>Road</b>	has the same meaning as in the Act.
<b>Rural Area</b>	means an area within a Rural Zone under the Scheme.
<b>Schedule</b>	means a Schedule to this Local Law.
<b>Scheme</b>	means the Moorabool Planning Scheme.
<b>Sell</b>	includes: <ul style="list-style-type: none"> <li>a) barter, offer or attempt to Sell, have in possession for sale, or allow to be sold or offered for sale; and</li> <li>b) Sell for re-sale.</li> </ul>
<b>Septic Tank System</b>	has the same meaning as in the <i>Environment Protection Act 1970</i> .
<b>Service Authority</b>	any company or Statutory Authority responsible for the installation of telecommunications, gas, electricity, water sewerage or drainage facilities in, on, over or under a Road.
<b>Shopping Trolley</b>	means a wheeled container, receptacle or carriage item supplied by a retailer for customers to transport goods.
<b>Sign</b>	means any placard, board, Sign, card or banner, whether portable or affixed or attached to any Land, fence, Building, person, Vehicle or Trailer, other than an Advertising Sign.
<b>Statutory Authority</b>	means: <ul style="list-style-type: none"> <li>a) the State and Commonwealth Government, or a department of either Government; and</li> <li>b) body established under an Act of the Parliament of Victoria, and of any other State or Territory of the Commonwealth, and of the Commonwealth.</li> </ul>
<b>Trailer</b>	has the same meaning as in the <i>Road Safety Act 1986</i> .

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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<b>Unsightly</b>	with respect to Land means any Land which is unkempt and is detrimental to the general amenity of the neighbourhood, when viewed from a Public Place.
<b>Vehicle</b>	has the same meaning as in the <i>Road Safety Road Rules 2009</i> .
<b>Vermin</b>	means “pest Animal” as defined under the <i>Catchment and Land Protection Act 1994</i> .
<b>Waste</b>	means any discarded, rejected, unwanted, surplus or abandoned matter (whether solid or liquid).
<b>Wheeled toy</b>	has the same meaning as in the <i>Road Safety Road Rules 2009</i> .
<b>Zone</b>	is a Zone identified in the Scheme.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 2 - ADMINISTRATION AND ENFORCEMENT

### 2.1 Purpose

The purpose of this Part is to provide for the issuing of Permits, impounding of items or things, setting of fees and charges, and enforcement of provisions of this Local Law.

### 2.2 Permits

#### 2.2.1 Permit Applications

- (a) An application for a Permit must be:
  - (i) in the form prescribed by Council from time to time; and
  - (ii) be accompanied by the appropriate fee as determined by Council from time to time.
- (b) Council may require additional information to be provided to enable an application for a Permit to be properly considered and for the purposes of administering and enforcing the provisions of this Local Law.
- (c) Council may require a person making an application for a Permit to give notice of the application to specified persons, or a specified class of persons, whom it considers may be affected by the granting of the Permit, which will entitle those persons to make a submission, which must be considered by Council before the application is determined.

#### 2.2.2 Consideration of Permit Applications

- (a) In considering an application for a Permit, Council must consider any:
  - (i) applicable Policy, code of practice or guideline approved by Council from time to time;
  - (ii) relevant written objection, submission or comment received from any person, public body or community organisation in respect of the application; and
  - (iii) other relevant matter.
- (b) A Permit may be refused or issued with or without conditions.
- (c) If a Permit is issued with conditions, those conditions may include, but are not limited to, conditions concerning:
  - (i) the payment of a fee or charge;
  - (ii) a standard to be applied;
  - (iii) a time limit to be applied;
  - (iv) the operation of the Permit being subject to the happening of a specified event;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (v) the requirement to rectify, remedy or restore a situation or circumstance; and
  - (vi) any other matter as considered appropriate.
- (d) If the applicant is not the Owner of the Land, which is the subject of the application, the consent of the Owner must be provided to Council with the application, unless the application concerns Council Land [or relates an application for additional cats or dogs](#).

### 2.2.3 Compliance

A person must comply with the conditions of any Permit issued by Council.

### 2.2.4 Duration

A Permit operates from the date it is issued and expires one year after the date of issue, except where expressly stated otherwise in this Local Law or in the Permit.

### 2.2.5 Amendment, Cancellation or Correction

- (a) Council may amend a condition of a Permit or cancel a Permit at any time if:
- (i) requested to do so by the Permit holder; or
  - (ii) Council considers that there has been:
    - (A) a material misstatement or concealment of fact in the application;
    - (B) a material mistake in relation to the issuing of the Permit;
    - (C) a material change of circumstances since the Permit was issued; or
    - (D) a failure to comply with a Permit condition or Notice to Comply relating to the Permit.
- (b) Council may correct a Permit issued if that Permit contains a:
- (i) clerical mistake or an error arising from any accident, slip or omission;
  - (ii) material miscalculation of figures; or
  - (iii) material mistake in the description of any person, thing or property referred to in the Permit.
- (c) Except in the case of a minor correction that does not affect the operation of a Permit, if Council proposes to amend a condition of a Permit, cancel a Permit or correct a Permit, it must:
- (i) give the Permit holder an opportunity to make a submission on whether the amendment, cancellation or correction should occur; and

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (ii) take into account those submissions (if any) in deciding whether to amend a condition of a Permit, cancel a Permit or correct a Permit.
- (d) If a Permit holder is not the Owner of the Land, the Owner of the Land must be notified of any amendment, cancellation or correction of the Permit.

**2.2.6 Transferability of Permits**

Unless otherwise stated in the Permit, a Permit:

- (a) is personal to the Permit holder; and
- (b) authorises only the person, or an agent acting on behalf of the person, named in the Permit to carry out the activity authorised; and
- (c) is not transferable without Council's prior written consent.

**2.3 Impounding**

**2.3.1 Power to Impound**

- (a) An Authorised Officer may impound any Animal, item or thing associated with a contravention of this Local Law.
- (b) As soon as ~~possible~~ reasonably practical after impounding any Animal, item or thing, an Authorised Officer must serve a Notice of Impounding on the Owner or other person apparently responsible for the item or thing setting out:
  - (i) any fees and charges payable in respect of the impounding;
  - (ii) the time within which the impounded item or thing must be
  - (iii) claimed; and
  - (iv) that the item or thing, if not claimed within that specified time, may be disposed of by Council.
- (c) Clause 2.3.1(b) does not apply where the Authorised Officer cannot, after making reasonable inquiries, identify or locate the owner or other person apparently responsible for the item or thing.
- (d) If an Authorised Officer has impounded any Animal, item or thing in accordance with this Local Law, Council may refuse to release it until the appropriate fee or charge has been paid to Council.
- (e) Any impounded ~~item~~, Animal, item or thing not claimed within the time specified on the notice of impounding may be disposed of by Council including by sale, tender, public auction or given away.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 2.4 Fees

### 2.4.1 Setting of Fees and Charges

- (a) Council may from time to time by resolution determine any:
- (i) fees and charges; and
  - (ii) guarantees and bonds,
- to apply under this Local Law.
- (b) Council may from time to time by resolution, determine an administrative, inspection or processing fee or charge, in addition to any standard fee, charge, guarantee or bond applied under this Local Law.
- (c) Council must give reasonable public notice of any resolution made under this Clause 2.4.1.

### 2.4.2 Differential or Structured Fees and Charges

In making a determination under Clause 2.4.1, Council may establish a system or structure of fees and charges, including a maximum fee or charge, if it considers it appropriate to do so.

## 2.5 Enforcement

### 2.5.1 Offences

A person is guilty of an offence if the person fails to:

- (a) comply with any provision of this Local Law;
- (b) obtain a Permit when required under this Local Law;
- (c) comply with any condition of a Permit issued in accordance with this Local Law;
- (d) comply with a Notice to Comply issued in accordance with this Local Law; or
- (e) comply with any [reasonable](#) direction of an Authorised Officer.

### 2.5.2 Notices to Comply

- (a) Council may, by serving a Notice to Comply substantially in the form of Schedule 1, direct any person to remedy anything which constitutes an offence under, or is otherwise contrary to, this Local Law.
- (b) A person must comply with the requirements of a Notice to Comply.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 2.5.3 Power to Act in Urgent Circumstances

- (a) An Authorised Officer may, in urgent circumstances arising from a failure to comply with this Local Law, take action to remedy the situation without serving a Notice to Comply if:
- (i) the Authorised Officer considers the circumstances or situation to be sufficiently urgent that the time involved, or difficulties associated, with the serving of a Notice to Comply may place a person, Animal, property or thing at risk or in danger; and
  - (ii) details of the circumstances giving rise to the urgent action and the remedial action are, as soon as ~~reasonably practical~~possible, forwarded to the person in respect of whom the action was taken.
- (b) The urgent action taken by the Authorised Officer under this Clause 2.5.3 must not extend beyond what is reasonably necessary to alleviate the immediate risk and danger involved.

#### GUIDANCE NOTE:

Where a person fails to comply with a Notice to Comply issued under Clause 2.5.2, Council ~~can~~may undertake the works necessary for compliance. In that case, and in a case where Council undertakes urgent works under Clause 2.5.3, Council ~~can~~may recover its costs incurred in undertaking those works from the person responsible for the breach, in accordance with Section 225 of the Act.

### 2.5.4 Appeals

- (a) Subject to Clause 2.5.4(c), any person who is aggrieved by any refusal to issue a Permit, Permit condition, direction or Notice to Comply issued in accordance with this Local Law ("decision") may, within 28 days after the date of being notified of the decision, or such shorter time specified in the decision, request a review of the decision accompanied by written submission supporting the request.
- (b) A person who makes a request under this Clause 2.5.4 is not relieved of their obligation to comply with the decision.
- (c) Where the Authorised Officer who issues a Notice to Comply is of the opinion that urgent compliance is necessary, the right of appeal provided by Clause 2.5.4(a) may be expressly excluded by the Notice to Comply.

### 2.5.5 Infringement Notices

The infringement notice Penalty in respect of an offence under this Local Law is set out in Schedule 3.

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 2.5.6 General Penalty at Magistrates' Court

Except as otherwise set out in Schedule 2 to this Local Law, any person who is guilty of an offence against this Local Law is liable to:

- (a) a maximum Penalty of not more than 20 Penalty units; and
- (b) for a continuing offence, a maximum Penalty not more than two (2) Penalty units for each day that the contravention continues after a finding of guilt or conviction.

**GUIDANCE NOTE:**

Council retains discretion about its enforcement of this Local Law. That discretion will generally be exercised by having regard to the Local Law objectives, the public benefit in enforcing and the proportionality of the enforcement in the context of the offence committed and the public benefit derived.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**PART 3 - PROTECTION AND MANAGEMENT OF COUNCIL ASSETS AND INFRASTRUCTURE**

**3.1 Protection of Assets and Land**

A person must not, without a Permit, destroy, damage, deface, interfere with, excavate or tap into any:

- (a) vegetation including trees, plants or grass;
- (b) fence, sign, tree band guard, service conduit, hydrant or other asset;
- (c) constructed asset including toilet blocks, BBQ's, benches and play equipment;
- (d) drain; or
- (e) watercourse, ditch creek, gutter, tunnel, bridge, levee, culvert, fence, or other similar asset,

that is vested in, controlled or owned by Council.

**3.2 Maintenance of Nature Strips**

An Owner or Occupier of Land in a Residential Area [where the posted speed limit on the road is 60 KPH or less](#) must ensure that the Nature Strip adjacent to that Land:

- (a) is maintained in a neat and tidy condition; and
- (b) does not contain grass, stubble or undergrowth exceeding 150mm in height.

**GUIDANCE NOTE:**

To undertake any works other than mowing, weeding and general lawn and vegetation maintenance a Permit is required under Clause 3.1.

**3.3 Asset Protection Permit**

- (a) If Building Work is to be carried out on any Land the:
  - (i) Owner of the relevant Land;
  - (ii) Builder engaged to carry out the Building work;
  - (iii) agent appointed for ~~the~~that purpose; or
  - (iv) demolition Contractor engaged to carry out demolition as part of the Building Work.
 must:
  - (v) not carry out, or allow to be carried out, any Building Work on that Land unless an Asset Protection Permit has been obtained;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (vi) not carry out, or allow to be carried out, any Building Work on that Land in contravention of any conditions attached to the Asset Protection [Permit](#) that has been obtained; and
- (vii) pay any Asset Protection Permit Bond specified in the Asset Protection Permit,

unless the type of Building Work has been exempted, or the person carrying out that Building Work is a person who has been exempted, or belongs to a class of persons that is exempt, from this Clause 3.3 as determined by Council from time to time.

- (b) An Asset Protection Permit may be subject to such conditions as Council sees fit, including but not limited to requiring:
  - (i) protection works to be done;
  - (ii) the payment of an Asset Protection Bond;
  - (iii) the erection of temporary fencing to the satisfaction of Council; and
  - (iv) that any public asset or infrastructure damage be repaired, replaced or reinstated within a specified time and to a specified standard.

**GUIDANCE NOTE:**

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 public assets or infrastructure are likely to be damaged.
- store or place items on or in Council Land or Road.

The amount of any Asset Protection Bond determined under Clause 3.3 will generally take into account:

- the type, size and nature of the Building work being undertaken;
- the total cost of the Building work being undertaken;
- the likely impact of the Building work on assets and infrastructure in the vicinity of the relevant Land; and
- any other factor that Council considers relevant.

- (c) The person to whom the Asset Protection Permit is issued must notify Council, in writing:
  - (i) of the proposed date for commencement of the Building Work at least [seven \(7\)](#) days prior to its commencement, unless a commencement date was specified in the Permit application and remains unchanged; and

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (ii) prior to the commencement of [any](#) works, of any damage to any Road (including a Road reserve, Footpath or Nature Strip) or other public asset within the area [covered by](#) the Asset Protection Permit existing at the time of that notice.
- (d) The person to whom the Asset Protection Permit is issued must repair or reinstate any damaged Road, drain, Nature Strip, kerb, channel, Vehicle crossing or other asset vested in Council within the area [covered by](#) the Asset Protection Permit or which is otherwise affected by the Building Work, and any repairs must be performed to the satisfaction of Council.
- (e) Upon completion of the Building Work, Council may:
  - (i) retain all or part of any Asset Protection Bond to offset the costs to Council of repairing any damage to any public asset;
  - (ii) upon being satisfied that no damage has been caused to any public asset, or that any damage has been repaired to Council's satisfaction, refund the Asset Protection Bond in full to the person who paid it; or
  - (iii) refund to the person who paid the Asset Protection Bond such portion of it as remains after Council has undertaken work necessary to repair [or replace](#) any damaged public asset.
- (f) For purposes of determining whether any damage to public assets has resulted from the execution of any Building Work, failure to provide prior notice of such damage under Clause 3.3(b) is prima facie proof that there was no existing damage to such public assets prior to the Building Work taking place.
- (g) Council may, in its absolute discretion, accept an alternative form of security to an Asset Protection Bond.
- (h) Where a person to whom an Asset Protection Permit is issued has caused damage to any public asset and the cost to repair the damage exceeds the amount of the Asset Protection Bond paid, Council may seek to recover the additional costs of repair from that person as a debt.

### 3.4 Discharge into Stormwater

A person must not allow the discharge of any substance, other than stormwater, into Council's stormwater drainage network.

### 3.5 Vehicle Crossings

- (a) Each of the Owner and the Occupier of Land must ensure that:
  - (i) each point at which a Vehicle accesses or egresses that Land from or to a Road is a Vehicle crossing that is constructed to Council's satisfaction; and
  - (ii) no Vehicle is allowed to enter or leave the Land except by using the properly constructed Vehicle crossing or otherwise in accordance with an Asset Protection Permit issued under Clause 3.3.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (b) Council or an Authorised Officer may serve a Notice to Comply requiring the Owner or Occupier of Land to construct a temporary or permanent Vehicle crossing.
- (c) A person must not permanently or temporarily construct, remove or alter a Vehicle crossing:
  - (i) without a Permit issued in accordance with the *Planning and Environment Act 1987*; or
  - (ii) without an Asset Protection Permit issued in accordance with Clause 3.3; or
  - (iii) otherwise in accordance with a Permit issued by Council or an Authorised Officer under this Clause 3.5.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**PART 4 - BUILDING SITES**

**4.1 Protection of Stormwater**

(a) The person responsible for the management of a Building Site must ensure that the Building Site is managed in a way that minimises the risk of stormwater pollution through the contamination of run off by chemicals, sediments and gross pollutants (including but not limited to potential windblown Refuse).

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~~Compliance with Clause 4.1(a) can be demonstrated by compliance with any applicable Local Government, State Government or Industry guidelines relating to the protection of stormwater.~~

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GUIDANCE NOTE:

Compliance with Clause 4.1(a) can be demonstrated by compliance with any applicable Local Government, State Government or Industry guidelines relating to the protection of stormwater.

(b)

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**4.2 Containment of Building Works within Building Site**

The person responsible for the management of a Building Site must ensure that all Building Work is contained entirely within the Building Site.

**4.3 Fencing**

(a) Unless exempted by Council, the person responsible for the management of a Building Site must ensure a fence is erected around the entire perimeter of the Building Site which:

- (i) is a minimum of 1.8 metres in height;
- (ii) is constructed of solid material or steel mesh panels with mesh sections not greater than 75 square centimetres (e.g. 150mm x 50mm);
- (iii) is securely fastened to become continuous without gaps;
- (iv) is adequately braced to prevent falling in high winds;
- (v) prevents silt or any other materials from escaping underneath the fence;
- (vi) is constructed entirely within the Building Site; and
- (vii) remains in place for the entire period that Building Work is being conducted on the Building Site, or until a certificate of occupancy has been granted, whichever occurs last.

(b) The person responsible for the management of a Building Site must, unless a Permit has been issued ensure that the fence erected under Clause 4.3(a) does not have more than one access opening and this opening is fitted with gates which:

- (i) swing into the Building Site or slide or roll along the existing fence line;
- (ii) are not less than 1.8 metres in height;

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (iii) are located to correspond with the Vehicle crossing ~~for the~~pertaining to that Building Site; and
  - (iv) are constructed to the same standard as that specified in Clause 4.3(a).
- (c) Any Building Site fencing that is damaged or removed as a result of Building Work, or any other reason, must be reinstated within 24 hours of the damage or removal. No building work shall be undertaken on the site until any damaged or removed fencing is fully reinstated.

#### 4.4 Containment of Refuse

- (a) The person responsible for the management of a Building Site must ensure that a rubbish container is placed on the Building Site, or at a location approved by Council, at the commencement of any Building work which:
- (i) is designed and constructed to prevent the escape of its contents by wind or any other means;
  - (ii) has a secure lid that remains closed at all times except when depositing Waste from the Building Site;
  - (iii) has a minimum usable capacity of ~~6-three (3)~~ three (3) cubic metres;
  - (iv) remains on ~~the Building Site,~~ or at a location approved by Council, for the duration of all Building Work;
  - (v) remains intact, serviceable and suitable for the amount and type of Waste it is to be used for; and
  - (vi) is emptied before it becomes full.
- (b) The person responsible for the management of a Building Site must ensure that:
- (i) no rubbish container is placed in a Public Place or on a Road without an Asset Protection Permit, and
  - (ii) all rubbish containers are removed from the Building Site within seven (7) days of completion of Building Work or certificate of occupancy being issued, whichever occurs first.

#### 4.5 Windblown Refuse

The person responsible for the management of a Building Site must ensure that all:

- (a) windblown Refuse is deposited in a rubbish container; and
- (b) dust from the Building Site is controlled to the satisfaction of an Authorised Officer.

**GUIDANCE NOTE:**

Windblown Refuse or dust leaving the Building Site may ~~also, or~~ alternatively, be subject to controls under the *Environment Protection Act 1970*.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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#### 4.6 Building Site Identification Sign

The person responsible for the management of a Building Site must ensure that:

- (a) a Sign is erected at the main entrance to the Building Site at the commencement of the Building Work and remains for the duration of the Building Work which is at least 600mm x 400mm in size and clearly displays the:
  - (i) lot number and street address, as described on the Certificate of Title relevant to the Land;
  - (ii) name of the ~~principal~~ Builder, as identified on any building permit for the Building Site;
  - (iii) name of the person in charge of the Building Site;
  - (iv) postal address of the person in charge of the Building Site;
  - (v) contact telephone number or numbers for the person in charge of the Building Site; and
- (b) the Sign erected under this Clause 4.6 is amended within 24 hours of any change of information contained on the Sign.

#### 4.7 Building Site Toilet

- (a) ~~The person responsible for the management of a Building Site~~ The Owner, Occupier or Builder of the Building Site must, at the commencement of any Building Work, provide a minimum of one on-site toilet with serviceable hand washing facilities for use by persons working on the Building Site which:
  - (i) is clean and serviceable at all times;
  - (ii) faces inwards to the Building Site;
  - ~~(iii)~~ is placed on level ground and;
  - ~~(iv)~~ is kept clear of obstructions.
- (b) Notwithstanding Clause 4.7(a) a person responsible for the management of a Building Site may provide a toilet with serviceable hand washing facilities on an adjacent site under their control provided that:
  - (i) no more than three (3) adjacent Building Sites are serviced by the same toilet;
  - (ii) access to the toilet is provided to any person working on the Building Sites; and
  - (iii) the toilet otherwise complies with the requirements of Clause 4.7(a).

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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#### 4.8 Hours of Operation

The person responsible for the management of a Building Site must ensure that works on the site, that are audible in a habitable room in any other residential premises, do not:

- (a) Commence before 7.00am on any weekday Monday to Friday on any weekday or before 9.00am on any weekends Saturday Sunday Saturday Sunday or public hHoliday; and
  - (b) Continue after 8.00pm Monday to Friday, weekends or public holiday on any day weekday or Saturday; and
- ~~— Occur on a Sunday.~~

#### 4.8.4.9 Direction to Cease Building Work

A person must immediately cease all Building Work when directed either orally or in writing by an Authorised Officer to do so.

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Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**PART 5 - ACTIVITIES AND BEHAVIOUR ON ROADS, COUNCIL LAND, MUNICIPAL PLACES AND PUBLIC PLACES**

**5.1 Behaviour in Municipal Places**

A person must not in a Municipal Place:

- (a) create a nuisance;
- (b) destroy, damage, interfere with or deface anything located there, without a Permit;
- (c) remove ~~any thing~~ anything without a Permit;
- (d) destroy, damage, climb on, remove or interfere with any flora without a Permit;
- (e) deposit or discard any litter or used syringe, except in a receptacle provided for that purpose;
- (f) obstruct, hinder or interfere with any member of Council staff in the performance ~~of his or her~~ their duties;
- (g) use or interfere with any lifesaving or emergency device located there, unless using the device in an emergency or participating in instruction or maintenance approved by Council;
- (h) act in a manner that is likely to interfere with the reasonable use and enjoyment by other persons; or
- (i) smoke any tobacco product or use any electronic smoking device within ten (10) metres of any Municipal Building except in a signed designated smoking area.

**5.2 Access to Municipal Places**

- (a) Council may:
  - (i) determine the hours when a Municipal Place will be open to the public;
  - (ii) restrict access to a Municipal Place or part of a Municipal Place;
  - (iii) authorise any person to occupy a Municipal Place or to restrict access to the Municipal Place;
  - (iv) close a Municipal Place or part of a Municipal Place to the public;
  - (v) charge fees, or authorise any other person to charge fees, for admission to or use of a Municipal Place or part of a Municipal Place; and
  - (vi) designate by appropriate Signage areas as no smoking areas.

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Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (b) Council may establish, from time to time:
  - (i) conditions applying to, and fees or charges for admission to or the hire or use of, a Municipal Place or part of a Municipal Place; and
  - (ii) conditions applying to, and fees or charges payable for, the hire or use of any property of Council in connection with a Municipal Place.
- (c) A person must not, without a Permit:
  - (i) enter a Municipal Place other than through an entrance provided for that purpose;
  - (ii) enter or remain in a Municipal Place during hours when the Municipal Place is not open to the public; or
  - (iii) enter or remain in a Municipal Place without the applicable fee or charge having been paid.

### 5.3 Behaviour in Municipal Buildings

A person must not, without a Permit:

- (a) organise, conduct or hold any function or event in a Municipal Building;
- (b) bring any Animal into, or allow any Animal under ~~his or her~~their control to remain in, a Municipal Building, except for an Assistance Dog being used by a person with a disability;
- (c) bring any Vehicle, Recreational Vehicle or Wheeled Toy into a Municipal Building;
- (d) bring into a Municipal Building any substance, liquid or powder which may:
  - (i) be dangerous or injurious to health;
  - (ii) have the potential to foul, pollute or soil any part of the Municipal Building; or
  - (iii) cause discomfort to persons.

### 5.4 Behaviour in Municipal Reserves

A person must not, in any Municipal Reserve:

- (a) enter upon or remain on any area set aside as a playing ground during the course of an organised sporting match or gathering, unless they are a player or an official or a competitor at the organised sporting match or gathering;
- (b) destroy, damage, climb on, remove or interfere with any structure;
- (c) kill, injure or interfere with any fauna;
- (d) throw any stones or missiles;
- (e) spit upon or otherwise foul any path or structure;

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (f) use any children's playground equipment other than for the purpose for which it was designed;
- (g) swim, paddle, dive, jump into or otherwise enter any wetland, lake, pond or fountain, unless authorised by Signage erected by Council;
- (h) throw or place, or cause or allow to be thrown or placed, any liquid, stones, sticks, paper, dirt, rubbish or any other object, substance or thing into any wetland, lake, pond or fountain;
- (i) play, engage in or practice any game, sport or activity, or use any facilities or spaces, (whether or not a Permit has been issued under this Local Law), in a manner that is:
  - (i) dangerous to any person or property; or
  - (ii) likely to interfere with the reasonable use and enjoyment of the Municipal Reserve by others;
- (j) walk on or damage any plot, bed, border, closed track, replanting area or other area set aside for plants;
- (k) post signs on any fence, gate, wall, seat, or other structure or vegetation without a Permit;
- (l) drive any Vehicle in a manner that is:
  - (i) dangerous to any other person in the Municipal Reserve; or
  - (ii) likely to interfere with the reasonable use and enjoyment of the Municipal Reserve by any other person.
- (m) park any Vehicle in contravention of any parking restrictions that apply in that Municipal Reserve; or
- (n) park or drive a Vehicle other than in an area set aside for that purpose.

## 5.5 Activities on Roads and Council Land

### 5.5.1 Commercial Activities

- (a) A person must not, without a Permit, or as otherwise provided by this Local Law, on any Road or Council Land undertake a commercial activity including:
  - (i) displaying or advertising any goods or services;
  - (ii) placing any Sign or Advertising Sign (including an 'A' frame Sign);
  - (iii) placing tables, chairs, outdoor umbrellas, planter boxes, barriers, outdoor heaters or any other item;
  - (iv) posting any placard, bill, poster, sticker or other document;
  - (v) handing out, posters, flyers or other such similar advertising material;

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Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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~~(vi)~~ conducting a street stall;

~~(vii)~~ holding a circus, carnival, festival, fete or other similar event;

~~(viii)~~ conducting activities connected with a fitness, exercise or personal training business, group or organization;

~~(ix)~~ busking;

~~(x)~~ conducting Itinerant Trading; or

~~(xi)~~ marking Graffiti.

(b) A person must not commission another person to do anything which breaches of Clause 5.5.1(a).

(c) If a Sign, including an Advertising Sign, is placed in breach of Clause 5.5.1(a), each person who:

(i) is knowingly concerned in the operation of the business, event or activity to which the Sign relates;

(ii) has the management and control of premises, property, business, event or activity to which the Sign relates;

(iii) is a promoter of the premises, property, business, event or activity to which the Sign relates; or

(iv) is responsible for the placement, siting or distribution of the Sign, including without limitation the person who engaged the person who physically placed or distributed the Sign,

is guilty of an offence against this Local Law, whether or not the person who physically placed the Sign is identified or prosecuted.

(d) Nothing in Clause 5.5.1(c) affects the liability under Clause 5.5.1(a) of any person who actually places any such Sign.

(e) A person who has placed, allowed to be placed, displayed or allowed to be displayed:

(i) goods; ~~or~~

(ii) a Sign; or

(iii) a seat, umbrella, table, chair other furniture or any other item on a Road or Council Land, whether or not in accordance with a Permit,

must move or remove it or them if directed to do so by:

(iv) an Authorised Officer; or

(v) a member of an Emergency Service.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**5.5.2 Undertaking works or obstruction of access**

- (a) A person must not, without a Permit, or otherwise in accordance with this Local Law:
  - (i) occupy or fence off a Road or Council Land;
  - (ii) excavate a Road or Council Land;
  - (iii) remove, damage or interfere with any structure, flora or item on a Road or Council Land;
  - (iv) leave, store or allow to be left any Bulk Rubbish Container, storage or shipping container (pods), skip bin or Trailer skip on Road or Council Land;
  - (v) store a trade Waste hopper or bin on a Road or Council Land;
  - (vi) leave or store, or allow to be left or stored, any other thing that encroaches on, obstructs the free use of, reduces the breadth of, or confines the limits of Road or Council Land;
  - (vii) construct or erect any hoarding, scaffolding or structure on a Road or Council Land;
  - (viii) occupy, or allow the occupation of, a Road or Council Land for the purpose of filming for commercial purposes or public exhibition or the placement of any equipment associated with such an activity; or
  - (ix) place a Charity Bin on a Road or Council Land.
- (b) Any person who undertakes work on a Road or part of a Road under the control of Council must perform the work to the standard, if any, specified by Council.
- (c) Council may exempt:
  - (i) a person; or
  - (ii) a class of persons,
 from the application of this Clause 5.5.2 or any part of it.

**5.5.3 Camping**

A person must not, without a Permit:

- (a) Camp or;
  - (b) use a Motor Vehicle, Caravan or other temporary or makeshift structure; or
  - ~~(c) occupy any Motor Vehicle~~ for the purpose of accommodation,
- on any Road or Council Land unless Council has set aside that Road or Council Land for that purpose.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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#### 5.5.4 Use of Vehicles

- (a) A person must not, without a Permit, on any Road or Council Land-~~er~~:
- (i) service, paint or dismantle any Motor Vehicle, Caravan or Trailer;
  - (ii) repair any Motor Vehicle, except where necessary to enable that Motor Vehicle to be removed;
  - (iii) park or leave, or cause to be parked or left, a Motor Vehicle, Caravan or Trailer for the purpose of displaying it for sale;
  - (iv) park or leave, or cause to be parked or left, a Motor Vehicle, Caravan or Trailer in the same place for more than 14 consecutive days in any 28-day period.
- (b) A person must not, without a Permit on any Council Land:
- (i) leave any ~~unroadworthy, derelict, damaged, unroadworthy~~ or unregistered Motor Vehicle, Caravan or Trailer; or
  - (ii) abandon or cause to be abandoned any Motor Vehicle, Caravan or Trailer.

#### 5.6 Activities which require a Permit in a Municipal Place

A person must not, without a Permit, in any Municipal Place:

- (a) ride or drive a Vehicle or horse except for:
- (i) parking a Vehicle in a parking area established for that purpose;
  - (ii) wheeling a bicycle, pram, baby or child carriage, wheelchair or children's toy along a Footpath ~~or~~ riding a bicycle or horse in a manner that does not interfere with the use or enjoyment of the Municipal Reserve by any other person; or
  - (iii) on a Road or bicycle path in accordance with any applicable Acts or regulations;
- (b) light a fire or allow any fire to remain alight except in a Purpose Built Outdoor Cooking Device provided by Council, or a commercially manufactured Purpose Built Outdoor Cooking Device assembled and operated according to manufacturer specifications; or
- (c) operate any device that has a predominant purpose of amplifying voice, music or noise.

#### 5.7 Recreational Vehicles on Council Land

- (a) A person must not, without a Permit, use a Recreational Vehicle on Council Land.
- (b) A person must not ride any unregistered Recreational Vehicle on Council Land.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (c) A person who owns an unregistered Recreational Vehicle must not knowingly allow another person to ride the Recreational Vehicle on Council Land.
- (d) An Authorised Officer may, in accordance with Clause 2.3, impound a Recreational Vehicle being used in contravention of this Clause.

### 5.8 Shopping Trolleys

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- (a) A person must not abandon or leave a Shopping Trolley, other than in an area set aside for the leaving of Shopping Trolleys, on any Road or Council Land.
- (b) Any Shopping Trolley left on any Road or Council Land other than in an area set aside for leaving Shopping Trolleys may be impounded by an Authorised Officer.
- (c) A retailer must not make a Shopping Trolley available for use, or allow a Shopping Trolley to be used, which does not have a locking mechanism attached.
- (d) For the purpose of Clause 5.8(c), locking mechanism means
  - (i) a coin-operated lock; or
  - (ii) any other device designed to prevent the theft or removal of the Shopping Trolley from the vicinity of the business that provides the Shopping Trolley.
- (e) Clause 5.8(c) does not apply to a retailer who makes available for use, or allows to be used, 25 Shopping Trolleys or less.
- (f) A retailer may apply in writing to Council for an exemption from the application of Clause 5.8(c), which exemption, if granted, may operate for a specified period or indefinitely.

### 5.9 Parking Permits

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- (a) Any person who has been allocated a parking Permit must not:
  - (i) Sell or offer to Sell the parking Permit;
  - (ii) give away for no charge, or offer to give away for no charge, the parking Permit, other than a temporary visitor Permit to be used by a legitimate visitor; or
  - (iii) otherwise allow the parking Permit (or other temporary visitor Permit being used by a legitimate visitor) to be used by any person other than a Vehicle parking Permit holder or their visitor.
- (b) A person, other than a visitor using a temporary visitor Permit, must not:
  - (i) purchase, or induce to purchase, a parking Permit from any parking Permit holder or other person not authorised to issue a parking Permit;
  - (ii) receive, or induce to receive, whether for a charge or not, a parking Permit from any parking Permit holder or other person not authorised to issue a parking Permit; or

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (iii) use, or attempt to use, a parking Permit if they are not the person who is entitled to use it.

**5.10 Roadside Firewood Collections**

A person must not, without a Permit, collect, cut or remove firewood from any Road or Council Land.

**5.11 Consumption and Possession of Alcohol**

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- (a) Council may, from time to time by resolution, declare an area to be an Alcohol Restriction Area.
- (b) After a declaration is made, Signage must be erected which identifies the relevant area as an Alcohol Restriction Area.
- (c) A declaration may define an Alcohol Restriction Area by:
  - (i) description; or
  - (ii) reference to a plan or map.
- (d) A person must not, without a Permit, in an Alcohol Restriction Area:
  - (i) consume Alcohol; or
  - (ii) be in possession of Alcohol, other than in a sealed container.
- (e) Clause 5.11 does not apply to a person who possesses or consumes Alcohol:
  - (i) within licensed premises in accordance with the *Liquor Control Reform Act 1998*;
  - (ii) on private property; or
  - (iii) otherwise in accordance with a Permit.

**5.12 Direction by an Authorised Officer in a Municipal Place or on Council Land**

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A person must at all times comply with any:

- (a) reasonable direction of an Authorised Officer; and
- (b) requirement set out in a Sign erected by Council, on any Council Land.

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 6 - LAND USE AND AMENITY

### 6.1 Property Numbers

- (a) If Council has allocated a number to Land within its Municipal District, each of the Owner and the Occupier of that Land must ensure that the allocated number is visible and is maintained in accordance with Clause 6.1(b).
- (b) The number must be positioned and be of a size to be clearly visible from the carriageway of the adjoining Road.

### 6.2 Unsightly Land

Each of the Owner and the Occupier of Land must ensure that it is not kept in a manner which is Unsightly.

#### GUIDANCE NOTE:

Land may be considered by Council to be unsightly if, among other things, it contains:

- unconstrained rubbish;
- native and non-native grass, noxious weeds, weeds and undergrowth which exceed a height of 150mm.
- disused excavations or Waste material;
- Graffiti on any Building, structure or boundary fence;
- disused machinery, unregistered Vehicles, machinery or Vehicle parts; or
- any other condition that is detrimental to the general amenity of the neighbourhood in which it is located.

### 6.3 Vacant Land and Abandoned Buildings

- (a) An Owner of any vacant Land must not allow the vacant Land to become unsafe.
- (b) An Owner of a Building must not allow the Building to become Dilapidated or fall into disrepair so as to become unsafe.
- (c) Where a Building is deemed unsafe Council can issue a Notice to Comply to either:
  - (i) secure the Building to ~~prohibit~~prevent access; or
  - (ii) secure the site to ~~prohibit~~prevent access to the Building and all\_ or a portion\_ of the Land surrounding the Building.

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**GUIDANCE NOTE:**

For the purposes of Clause 6.3(b), circumstances in which a Building would be classified as unsafe might include, but not be limited to:

- where access to the Building is available;
- where windows and doors are either missing or broken; or
- where there is potential for parts of the external or internal structures to collapse of fall due to disrepair.

**6.4 Maintenance of Private Drains and Stormwater Retention Systems**

Each of the Owner and the Occupier of Land must ensure that any drain or stormwater retention system on the Land that is not vested in Council or another public authority is operated and maintained so that it is fit for purpose.

**6.5 Obstruction of Sign or Signal on a Road**

Each of the Owner and the Occupier of Land must ensure that no:

- (a) tree, hedge, plant or vegetation of any kind grows; or
- (b) structure of any kind is constructed or placed,

so that it obstructs the view of a Motor Vehicle, Sign or Signal on a Road by any person using that Road.

**6.6 Overhanging or Encroaching Vegetation**

Each of the Owner and the Occupier of Land must not cause or allow any tree, hedge, plant or vegetation of any kind to:

- (a) overhang or encroach on any Road, Footpath or Nature Strip at a height of less than 2.5 metres; or
- (b) otherwise obstruct any Road, Footpath or Nature Strip.

**6.7 Shipping Containers**

Each of the Owner and the Occupier of Land in a Residential Area must ensure that no shipping container is stored or placed:

- (i) on vacant Land;
- (ii) in front of any dwelling on the Land, or between the dwelling and the Road abutting the Land frontage;
- (iii) within five (5) metres of any dwelling on any other Land;
- (iv) for more than 14 consecutive days; or

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Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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~~(v)(e)~~ for more than 21 days in any calendar year,

without a Permit.

~~(b) — Each of the Owner and the Occupier of any Land in a Commercial Area or Rural Area (excluding a Farming Area) must ensure that no shipping container is placed or stored on that Land for more than 28 days in any calendar year without a Permit.~~

~~(c) — A person must not, without a Permit, place, or allow or cause to be placed, a shipping container on a Road or Public Place.~~

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**GUIDANCE NOTE:**

A Permit [under this Local law](#) is not required if a Permit has been issued either under the *Planning and Environment Act 1987* or the *Building Act 1993*.

### 6.8 Heavy Vehicles

A person must not, without a Permit, park, keep, store, repair or allow to remain any heavy Vehicle on any [private](#) Land in a Residential Area.

**GUIDANCE NOTE:**

A Permit is not required if a Permit has been issued under the *Planning and Environment Act 1987* or if the activity is an exempt activity under the Scheme.

### 6.9 Audible Alarms

Each of the Owner and the Occupier of any Land must ensure that no audible alarm that is installed on the Land can be heard continuously beyond the boundary of such Land within any Residential Area or Commercial Area for more than [ten \(10\)](#) minutes, or intermittently for more than [ten \(10\)](#) minutes in total within a one [\(1\)](#) hour period.

### 6.10 Camping on Private Land

(a) A person must not, without a Permit, occupy a Caravan or any other temporary structure on private Land for more than [seven \(7\)](#) days within any 28 day period, or for more than 14 days in any calendar year.

(b) The Owner or the Occupier of Land must not, without a Permit, allow the occupation of a Caravan any other temporary structure on private Land for more than [seven \(7\)](#) days within any 28 day period or for more than 14 days in any calendar year.

**GUIDANCE NOTE:**

This Clause 6.10 does not apply to any private Land that is Caravan park within the meaning of the *Residential Tenancies Act 1997*.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 6.11 Recreational Vehicles

A person must not, without a Permit, use a Recreational Vehicle, or allow a Recreational Vehicle to be used, on private Land:

- (a) in a Residential Area; or
- (b) within 500 metres of any dwelling on property other than the property on which the Recreation Vehicle is being used; or
- (c) between the hours of sunset and sunrise each day.

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## PART 7 - WASTE MANAGEMENT

### 7.1 Septic Tank Systems

The Owner of Land upon which a Septic System is installed and used which does not require, or is not the subject of a permit under the *Environmental Protection Act 1970* must:

- (a) ensure that at least once every three (3) years it is emptied by a licenced Contractor and the contents disposed of at a suitable location;
- (b) provide a report from a licenced Contractor to Council each time it is emptied;
- (c) ensure that effluent from the Septic Tank System is not allowed to discharge off the Land;
- (d) ensure that effluent from the Septic Tank System is not allowed to discharge, run or pond on the surface of the Land;
- (e) ensure that the effluent lines are sufficient to manage the effluent created by the dwelling/s or Building/s on the Land;
- (f) ensure that, on any premises that is subject to a registration under the *Food Act 1984*, a grease trap of sufficient size is installed prior to the Septic Tank System and is emptied as needed to ensure that fats and grease do not enter the Septic Tanks System; and
- (g) ensure that the Septic Tank System is maintained in such a way that it does not allow the ingress of any groundwater, rainwater or surface water runoff.

### 7.2 Reuse of Domestic Grey-Water

A person must not, without a Permit, use untreated greywater to irrigate any Land.

### 7.3 Storage of Trade Waste

Each of the Owner and the Occupier of every commercial premises in a Commercial or Industrial Area must provide trade Waste hoppers, bins, or storage containers for the storage of trade Waste, which are:

- (a) constructed of impervious materials, water tight and pest proof;
- (b) emptied before they become full;
- (c) maintained in a clean, inoffensive and sanitary condition;
- (d) in sufficient numbers to contain all the trade Waste produced on the premises;
- (e) stored in an area and in a manner that is safe and secure; and
- (f) stored in a manner that cannot contaminate or enter the stormwater system.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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#### 7.4 Waste Collection and Disposal

- (a) Each of the Owner and the Occupier of Land must not:
  - (i) place out for collection more than one (1) Mobile Waste Bin, one (1) Green Organics Bin and one (1) Recyclables Bin, unless otherwise authorised by Council; or
  - (ii) place out for collection any Mobile Waste Bin, Green Organics Bin or Recyclables Bin in a manner that causes a hazard to a pedestrian, Vehicle or person undertaking the collection and processing of the bins.
- (b) Each of the Owner and the Occupier of any Land must ensure that any Mobile Waste Bin, Green Organics Bin or Recyclables Bin placed out for collection is:
  - (i) positioned on the Nature Strip adjacent to the kerb at least one metre from any other item, or at such other place as may from time to time be approved by Council;
  - (ii) placed no earlier than 3:00pm on the day prior to the day of collection, or at such other time determined by Council from time to time; and
  - (iii) removed and returned to the premises on the same day as the collection occurred.
- (c) Each of the Owner and the Occupier of Land must remove any Waste or material which has escaped or spilled onto any Road, Nature Strip or surrounding area from a Mobile Waste Bin, Green Organics Bin or Recyclables Bin, or from any hard Waste, left out by the Owner or Occupier for collection.

#### 7.5 Hard Waste Collection

- (a) A person must not place any hard Waste on any Road, Nature Strip or other Public Place unless the person has applied for, and received, a hard Waste collection booking from Council.
- (b) If Council has accepted a household hard Waste collection booking, the person who has secured the booking must ensure that all hard Waste to be collected is placed:
  - (i) on the Nature Strip or other ~~agreed~~ location specified by Council not earlier than two (2) days prior to the booking collection date; and
  - (ii) in a neat, tidy and orderly manner.

#### 7.6 Interference with Waste

A person must not:

- (a) remove, damage or interfere with a bin, the contents of any bin or any hard Waste placed out for collection; or
- (b) place additional material into a bin, or to hard Waste, that has been placed out for collection by another person.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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### 7.7 Maintenance of Waste, Organic and Recycling Bins

Each of the Owner and the Occupier of any Land must:

- (a) keep the Mobile Waste Bin, Green Organics Bin and Recyclables Bin allocated to their premises in a clean, inoffensive and sanitary condition;
- (b) ensure that any area where the Mobile Waste Bin, Green Organics Bin and Recyclables Bin are stored between collections is kept in a clean, inoffensive and sanitary condition; and
- (c) ensure that the Mobile Waste Bin, Green Organics Bin and Recyclables Bin, when placed for collection and containing Waste, are capable of being, and are, kept closed at all times, except when items are being deposited in or removed from them.

### 7.8 Street Bins and Park Bins

A person must not deposit any household Waste, green Waste, trade Waste or commercial Waste into any street bin or park bin [provided by Council](#).

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**PART 8 - ANIMALS**

**8.1 Number of Animals**

- (a) The Owner or Occupier of any Land must not, without a Permit:
  - (i) keep or allow to be kept, more than 4 different types of Animals on premises in a Residential Area at any one time; and
  - (ii) keep or allow to be kept any more in number for each type of Animal as set out in the following table; or

Animal	Residential Area	Rural area up to 2 hectares	Rural Area up to 4 Hectares	Rural Area over 4 Hectares
Dogs	2	2	2	5
Cats	2 or 3 if all desexed	2 or 3 if all desexed	2 or 3 if all desexed	5
Budgerigars, canaries or finches	50	50	50	No Local Law Permit Required
Pigeons	10	30	<del>30</del> 60	<del>60</del> 100
Racing Pigeons	0	60	100	No Local Law Permit Required
Cockatoo / Galah (caged)	0	0	2	No Local Law Permit Required
Fowls	5	20	<del>20</del> 30	No Local Law Permit Required
Roosters	0	0	1	No Local Law Permit Required
Pheasants	0	5	10	No Local Law Permit Required
Other poultry (including ducks, geese, turkey, guinea fowl or similar)	0	10	20	No Local Law Permit Required
Ostriches / Emus / Peacocks / Llama / Alpaca	0	2	6	No Local Law Permit Required
Sheep	0	2	4	No Local Law Permit Required
Goats	0	2	4	No Local Law Permit Required
Horses	0	2	4	No Local Law Permit Required
Pigs	0	0	<del>1</del> 2	No Local Law Permit Required
Cows	0	0	2	No Local Law Permit Required
Other primary production Animals	0	0	0	No Local Law Permit Required
Rabbits		6		
Ferrets / Guinea pigs / Rabbits or Mice	3		8	No Local Law Permit Required
Reptiles	2		4	<del>No Local Law Permit Required</del>

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Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (iii) any other Animal that is not specified in the above table.
- (b) Clause 8.1 does not apply to Animals kept and used in accordance with the Scheme.

**8.2 Progeny of Animals**

For the purpose of calculating the number of Animals being kept for the purposes of Clause 8.1, the progeny of any dog or cat lawfully kept will be exempt for a period of 3 months after their birth, and the young progeny of any sheep, goats, horses, cows or other primary production Animals will be exempt for a period of 6 months after their birth.

**8.3 Nuisances**

- (a) The Owner or Occupier of any Land where any Animal is kept must ensure that the keeping of the Animal does not create a nuisance.
- (b) The Owner or Occupier of any Land where any Animal is kept must ensure that all Animal litter and Refuse and rubbish associated with the keeping of the Animal is disposed of in such a manner so as not to create a nuisance.

**GUDIANCE NOTE:**

For the purposes of Clause 8.3, circumstances in which the keeping of an Animal constitutes a nuisance might may include, but is not limited to:

- when the Animal makes noises or smells that unreasonably adversely affect the peace, comfort or convenience of any person on any other premises; and
- when the Animal produces an unreasonable accumulation of excrement, whether on the keeper's premises or on any other premises.

**8.4 General Provisions**

The Owner or Occupier of any Land who keeps any Animal on the Land must:

- (a) keep the ground area surrounding the kennel, house, aviary, shelter or other enclosure where the Animal is kept well drained;
- (b) keep the Land within three (3) metres of the kennel, house, aviary, shelter or other enclosure in which the Animal is kept free of dry grass, weeds, Refuse, Waste or other material capable of harbouring rats-rodents or other Vermin;
- (c) keep all food for consumption by the Animal in a Vermin proof receptacle;
- (d) remove and place all manure, excrement, Refuse or rubbish produced or accumulated by the Animal, as soon after the production or accumulation as is reasonably practicable in a container:
  - (i) that is sanitary, impervious and Vermin and fly proof; and
  - (ii) the contents of which are removed and disposed of at least once every weeks: 1

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (e) maintain any kennel, house, aviary, shelter or other enclosure where the Animal is kept in a clean and sanitary condition;
- (f) keep the Animal in a manner that does not cause an offensive odour;
- (g) prevent wastewater from:
  - (i) entering the stormwater system; or
  - (ii) discharging on to adjoining premises; ~~and; and~~
- (h) not cause, allow or suffer excrement or manure to escape from the premises.

### 8.5 Animal Enclosures

- (a) The Owner or the Occupier of Land must not, within ten (10) metres of a dwelling on other Land, construct or allow to be constructed any enclosure in which poultry is kept, or intended to be kept.
- (b) The Owner or Occupier of Land must keep any Animal on the Land in a kennel, house, aviary, shelter or other enclosure that complies with all of the following:
  - (i) prevents, as far as practicable, the wandering or escape of such Animal beyond the boundaries of the Land;
  - (ii) meets the welfare needs of the Animal;
  - (iii) is capable of being readily cleaned;
  - (iv) is maintained in good repair at all times; and
  - (v) meeting any requirements of an Authorised Officer issued in writing from time to time.

#### GUIDANCE NOTE:

When assessing whether a kennel, house, aviary, shelter or other enclosure complies with Clause 8.5 the Authorised Officer ~~may~~<sup>might</sup> consider:

- the height of any kennel, house, aviary, shelter or other enclosure;
- the location of any kennel, house, aviary, shelter or other enclosure having regard to:
  - the distance from the dwelling on the Land;
  - the distance from any neighbouring dwelling;
  - the amenity of the surrounding area; and
  - the size of any kennel, house, aviary, shelter or other enclosure and its adequacy to house the proposed number and type of Animals;
- the security of any kennel, house, aviary, shelter or other enclosure; and

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- the nature of the materials used in any kennel, house, aviary, shelter or other enclosure and the ability of such material to be readily cleaned.

### 8.6 Stables

A person must not, without a Permit, construct a stable on any Land:

- (a) within five (5) metres of any Road;
- (b) within two (2) metres of the boundary of any adjoining Land; or
- (c) within ten (10) metres of any dwelling on any adjoining Land.

### 8.7 Dog Excrement

- (a) A Person in charge of any dog must not allow any part of the excrement of the dog to remain on any Public Place.
- (b) A Person in charge of any dog in a Public Place must carry a Litter Device suitable to [clean up/remove](#) any excrement left by the dog and must produce such Litter Device upon request of any Authorised Officer.

### 8.8 Livestock

- (a) The Owner or the Occupier of Land on which Livestock is kept must ensure that the Land is adequately fenced so as to prevent the escape of the Livestock.
- (b) A person must not permit Livestock which they own or have under their control to wander at large or roam on any Public Place.
- (c) A person must not, without a Permit, graze Livestock on any Road.
- (d) Subject to Clause 8.8(e), a person must not, without a Permit, move Livestock on any Road.
- (e) A person who is in charge of the movement of Livestock on any Road does not require a Permit if they:
  - (i) 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;
  - (ii) ensure Livestock are only to be on Road for the minimum time it reasonably takes to move them to their destination;
  - (iii) ensure, as far as possible, the Livestock are moved during daylight hours;
  - (iv) comply with any directions from an Authorised Officer with regard to the route to be followed and the protection from damage likely to be caused by the Livestock to the Road, including native vegetation, construction and drainage on the Road, or private property;

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- (v) ensure the Livestock are supervised and under effective control by a person who is competent in the management of Livestock; and
  - (vi) otherwise comply with all the requirements of any guidelines for the movement of Livestock prepared from time to time by the Roads Corporation and with the requirements of the *Road Safety Act 1986* and any Regulations made thereunder.
- (f) Where a farm property abuts both sides of a dividing Road, the Owner or Occupier of the farming property must ensure that any Livestock that is moved from one side of the farm property to the other are moved directly across the dividing Road unless, in the opinion of an Authorised Officer, it is not practical to do so.

**GUIDANCE NOTE:**

Any person in charge of the grazing of Livestock on a Road with a Permit will generally be expected to:

- ensure that the appropriate temporary fencing is in place to ensure the temporary containment of Livestock to the location where the Permit is issued;
- ensure that adequate warning of the presence of Livestock on the Road is given to other Road users or potential Road users;
- ensure that, apart from any other warnings considered appropriate by the person engaged in such activities, Signs are displayed which conform to guidelines prepared from time to time by the Roads Corporation and with the requirements of the *Road Safety Act 1986* and any Regulations made thereunder;
- ensure that any Signs and temporary fencing used are removed from the Road at the time of completion of such movement or grazing; and
- ensure, 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 are consistent with the Australian Standards for such purposes and any other Signage necessary for Road safety having regard to topography, conditions, Livestock type and numbers.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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**PART 9 - FIRES AND FIRE HAZARDS**

This part does not apply on any day or part of a day declared as a total fire ban day, or during the ~~fire season~~ declared fire danger period as ~~declared~~ stated by the Country Fire Authority. Clause 9.1(a), does not apply to fires that have been authorised by a Permit under and in accordance with the *Country Fire Authority Act 1958*.

**9.1 Open Air Burning**

A person must not, without a Permit, light or allow to remain alight an Incinerator or a fire in the open air unless the Incinerator or fire is lit:

- (a) in a Farming Area, for farming purposes;
- (b) ~~in a Rural Area, not used for farming purposes, for the burning of dry material only, being leaves, bark, twigs, small branches, grass and weeds for fire prevention purposes; outside of the boundaries of the areas of the maps incorporated into this local law from time to time and the fire is for fire prevention or fuel reduction purposes and meets the following criteria:~~
  - (i) ~~only dry garden waste, leaves, twigs, branches and timber are allowed to be burned~~
  - (ii) ~~a minimum three (3) metre firebreak around and above the fire is provided~~
  - (iii) ~~the maximum quantity of fuel to be burnt does not exceed one (1) cubic metre~~
  - (iv) ~~the burning can only commence after 9.00am and must be completed and fully extinguished by 3.00pm that same day;~~
  - (v) ~~sufficient water and equipment to extinguish the fire is provided and~~
  - ~~(b)(vi) whilst the fire is alight an adult must be in attendance at all times.~~
- (c) in a Purpose Built Outdoor Cooking and/ or Heating Device; or
- (d) to use a trade tool for and in accordance with its designed purpose.

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**GUIDANCE NOTE:**

For the purposes of Clause 9.1, circumstances where a Permit may be issued include but are not limited to:

- where an Authorised Officer forms the opinion that any of the following applies:
  - the nature, volume, or location or the material to be burnt is such that its disposal by any other means is unsafe;
  - there is no reasonable alternative method available for the disposal of the material proposed to be burnt; or
  - it is necessary to burn the material in the interests of public safety.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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- Where the proposed fire is in within the boundaries of the areas of the maps incorporated into this local law from time to time a Residential Area if the above apply and the following can be met:
  - the provision of a minimum three (3) metre firebreak around and above the fire;
  - that the maximum quantity of fuel to be burnt does not exceed one (1) cubic metre; or ten (10) cubic metres if the fire is for fuel reduction burning and is undertaken on land exceeding four (4) hectares and by a sporting organisation eg sport grounds, golf course, tennis courts etc.
  - that there is sufficient provision of water and equipment to extinguish the fire; and
  - that the fire is attended by an adult at all times it is alight; or
- when the fire is to be used for public entertainment.

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### 9.2 Type of Waste that cannot be burnt

A person must not light or allow to remain alight an Incinerator or a fire in the open air for the purpose of burning:

- (a) household Refuse;
- (b) industrial, commercial or trade Waste; or
- (c) tyres or other noxious materials.

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### 9.3 Direction by Authorised Officer

A person who has lit, or has allowed to be lit or to remain alight, an Incinerator or a fire in the open air contrary to this Clause 9 must extinguish the fire immediately on being directed to do so by an Authorised Officer.

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#### GUIDANCE NOTE:

Where a person fails to comply with a direction given under Clause 9.3:

- the Authorised Officer or his/her agent may enter upon the premises to which the direction relates and do any act, matter or thing which the person was directed to do; and
- the expenses of doing such act, matter or thing, will be borne by, and may be recovered by Council from the person given the direction.

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## Schedule 1 Notice to Comply

### Notice to Comply

Moorabool Shire Council General Local Law 2019 – Clause 2.56.2

<b>Notice No.</b>	[insert]	<b>Date of Issue</b>	[insert]
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To:

The [Owner] [Occupier]

Of:

**Address**

I have reason to believe, from a recent inspection of Land at (Insert Address) (**Land**), that the Land is being kept in a manner that contravenes clause (insert clause) of the Moorabool Shire Council General Local Law 2018-2019 (**Local Law**) by:

Specify the act, omission, matter or thing that constitutes the contravention	Specifically, the Land: 1-
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In order to remedy this contravention you must:

Specify the works required to correct the contravention	1-
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The works required must be completed by the following date:

Specify the date by which the works required must be done	1-
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Authorised Officer's details:

Signature of Authorised Officer	
Name of Authorised Officer	

#### Failure to Comply

If you fail to comply with this Notice to Comply:

- it is an offence under clause 2.6-46.5.1 of the Local Law, the maximum penalty for which is 20 Penalty units; and
- Council may, pursuant to section 225 of the *Local Government Act* 1989, carry out the work required by this Notice to Comply and recover the cost of doing so from you.

#### Review

You may apply for a review of this Notice to Comply under clause 2.6-2.5.4 of the Local Law. An application for review of the Notice to Comply must be made in writing and must be made before the date by which the works required must be done (as shown above).

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## Schedule 2 Penalties

Clause	General Description	Maximum Penalty
	<b>Part 3 - Protection and Management of Council Assets and Infrastructure</b>	
3.2	Requirement to maintain the nature strip	10
3.3 (c)	Requirement to notify Council	5
	<b>Part 4 - Building Sites</b>	
4.6(a)	Requirement to provide a site sign	10
4.6(b)	Requirement to ensure that the building site sign is updated in light of any changes	5
	<b>Part 5 - Activities and Behaviour on Roads, Council Land, Municipal places and public places</b>	
5.1(a) to (i)	Requirements on persons to behave in certain ways in a Municipal Place	10
5.2(c)	Requirements re-entry and remaining in a Municipal Place	10
5.3(a) to (d)	Requirements on persons to behave in certain ways in a Municipal Building	10
5.4(a) to (n)	Requirements on persons to behave in certain ways in a Municipal Reserve	10
5.5.1(d)	Requirement to remove a sign when requested by an authorised officer or member of the Emergency Services	10
5.5.3 (a) to (c)	Requirement not to camp without a permit on a Road, Council Land or a Municipal Place	10
5.5.4(b)	Requirements not to undertake specific activities with vehicle on any, Council Land or Municipal Place.	10
5.6(b) and (c)	Requirement to hold a permit to either light a fire or play amplified music in a Municipal Place	10
5.7(b)	Requirement to not ride an unregistered recreational vehicle on Council land or a Municipal Place	10
5.8(a)	Requirement on a person not to abandon a shopping trolley on any Road, Council land or Municipal Place	10
5.9(a) and (ba)	Requirements on persons with regard to the use and purchase of a Parking Permit	10

Governance	Community Local Law No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Clause	General Description	Maximum Penalty
5.10	Requirement that a person must not without a permit collect fire wood from any Road, Council Land or Municipal Place	10
5.11(d)	Requirements with regard to a persons consumption and possession of alcohol in an Alcohol Restriction Area	10
5.12	Requirement to comply with the reasonable direction of an authorised officer or the requirements set out in a sign in a Municipal Place or on Council Land	10
	<b>Part 6 - Land Use and Amenity</b>	
6.1(a) and (b)	Requirement with regard to the positioning and visibility of the property number	10
6.6(a) and 6.6(b)	Requirement on an owner or occupier to ensure that vegetation does not encroach upon or obstruct any Road, Footpath or Nature Strip	10
	<b>Part 7 - Waste Management</b>	
7.5(a) and (b)	Requirements on a person with regard to the placement of hard waste for hard waste collection	10
7.8	Requirement that a person does not deposit any residential, green, trade or commercial waste into a street or park bin.	10
	<b>Part 8 - Animals</b>	
8.7(a) and (b)	Requirement on the person in control of a dog to not allow any excrement of the dog to remain on and Road, Council Land or Public Place and to carry a suitable litter device at all times.	10

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## Schedule 3      Infringement Penalty Units

Clause	General Description	Infringement Penalty Unit
	<b>Part 2 - Administration and Enforcement</b>	
2.2.3	Requirement to comply with the conditions of a permit	5
2.5.2	Requirement to comply with a notice to comply	5
	<b>Part 3 - Protection and Management of Council Assets and Infrastructure</b>	
3.1(a), (b), (c), (d) and (e)	Requirement that a person must not without a permit destroy, damage, deface, interfere with, excavate or tap into any council land or asset	2
3.2 (a) and (b)	Requirement to maintain the nature strip	2
3.3(a)	Requirement to obtain an asset protection permit	5
3.3(b)	Requirement to notify Council	1
3.3(c)	Requirement to repair or reinstate any damage to council asset or infrastructure	5
3.4	Requirement not to discharge of any substance other than stormwater into the councils stormwater network	5
3.5(a)	Requirement to ensure that vehicle access and egress is only via a properly constructed and approved access point	2
3.5(c)	Requirement to obtain a permit to construct remove or alter a vehicle crossing	5
	<b>Part 4 - Building Sites</b>	
0	Requirement to minimise stormwater pollution	3
4.2	Requirement to contain Building Works within Building Site	3
4.3(a)	Requirement to erect fencing	4
4.3(b)	Requirements with regard to gates and openings	2
4.3(c)	Requirements with regard to reinstatement of fencing	4
4.4(a)	Requirements to provide a suitable rubbish container on site.	4
4.4(b)	Requirements regarding the placement and removal of rubbish containers.	4

Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Clause	General Description	Infringement Penalty Unit
4.5	Requirement to control windblown Refuse and dust	3
4.6(a)	Requirement to provide a site sign	2
4.6(b)	Requirement to ensure that the building site sign is updated in light of any changes	1
4.7	Requirement to provide a toilet for workers	5
<a href="#">4.8</a>	<a href="#">Requirements regarding hours of operation</a>	<a href="#">4</a>
<del>4.8</del> <a href="#">4.9</a>	Requirement to comply with a direction to cease works	5
	<b>Part 5 - Activities and Behaviour on Roads, Council Land, Municipal Places and Public Places</b>	
5.1(a) to (i)	Requirements on persons to behave in certain ways in a Municipal Place	2
5.2(c)	Requirements re-entry and remaining in a Municipal Place	2
5.3(a) to (d)	Requirements on persons to behave in certain ways in a Municipal Building	2
5.4(a) to (n)	Requirements on persons to behave in certain ways in a Municipal Reserve	2
5.5.1(a)	Requirement to hold a permit to undertake a commercial activity	4
5.5.1(b)	Requirement not to commission another to breach clause 5.5.1 a)	5
5.5.1(c)	Requirement with regard to the placement of Signs	4
5.5.1(d)	Requirement to remove a sign when requested by an authorised officer or member of the Emergency Services	2
5.5.2(a)	Requirement to obtain a permit prior to undertaking works or obstructing access on a road, Council Land or Municipal Place	4
5.5.2(b)	Requirement to undertake any works to the standard specified by council	4
5.5.3 (a) to (c)	Requirement not to camp without a permit on a Road, Council Land or a Municipal Place	2
5.5.4(a)	Requirements not to undertake specific activities with vehicle on any Road, Council Land or Municipal Place.	2
5.5.4(b)	Requirements not to undertake specific activities with vehicle on any, Council Land or Municipal Place.	4
Governance	Community <i>Local Law</i> No 1. (2017)	****/**** Adopted by Council: 00 January 201*

Clause	General Description	Infringement Penalty Unit
5.6(a)	Requirement to hold a permit to ride or drive a vehicle in a municipal place	2
5.6(b) and (c)	Requirement to hold a permit to either light a fire or play amplified music in a Municipal Place	2
5.7(a)	Requirement to hold a permit to use a recreational vehicle on council land or Municipal Place	5
5.7(b)	Requirement to not ride an unregistered recreational vehicle on Council land or a Municipal Place	2
5.7(c)	Requirement on the owner of an unregistered recreational Vehicle not to knowingly allow a person to ride the vehicle on Council land or a Municipal Place	4
5.8(a)	Requirement on a person not to abandon a shopping trolley on any Road or Council land.	2
5.8(b)	Requirement on a retailer to not make a shopping trolley available for use unless it has a locking mechanism attached	5
5.9(a) and (b)	Requirements on persons with regard to the use and purchase of a Parking Permit	2
5.10	Requirement that a person must not without a permit collect fire wood from any Road, Council Land or Municipal Place	2
5.11(d)	Requirements with regard to a persons consumption and possession of alcohol in an Alcohol Restriction Area	2
5.12	Requirement to comply with the reasonable direction of an authorised officer or the requirements set out in a sign in a Municipal Place or on Council Land	2
<b>Part 6 - Land Use and Amenity</b>		
6.1(a) and (b)	Requirement with regard to the positioning and visibility of the property number	1
6.2	Requirement to ensure that land is kept in a manner that it is not unsightly	4
6.3(a)	Requirement on an owner to not allow any vacant land to become unsafe	5
6.3(b)	Requirement on an owner of a building to not allow that building to become Dilapidated or unsafe	5
6.4	Requirement that the owner or occupier ensure that any drain or stormwater retention system is maintained and fit for purpose	4
Governance	Community <i>Local Law</i> No 1. (2017)	****/**** Adopted by Council: 00 January 201*

Clause	General Description	Infringement Penalty Unit
6.5(a) and (b)	Requirement that any owner or occupier ensure that any vegetation or structure does not obstructs the view of a motor vehicle, sign or signal on a Road of any person using that Road	2
6.6(a) and (b) and b)	Requirement on an owner or occupier to ensure that vegetation does not encroach upon or obstruct any Road, Footpath or Nature Strip	2
6.7(a)	Requirement that the Owner or Occupier of land in a Residential Area must hold a permit to store or place a shipping container	5
<del>6.7(b)</del>	<del>Requirement that the Owner or Occupier of Land in a Commercial Area or rural Area must hold a permit to store or place a shipping container</del>	<del>5</del>
<del>6.7(c)</del>	<del>Requirement to hold a permit to place a shipping container on a Road or Public Place</del>	<del>5</del>
6.8	Requirement to hold a permit to park, keep, store or allow to remain a Heavy Vehicle on any Land within a Residential Area	4
6.9	Requirement with regard to the audibility of audible alarms in a Residential and Commercial Areas	2
6.10(a)	Requirement that a person in certain circumstances must hold a permit camp on private land	2
6.10(b)	Requirement that the Owner or Occupier of Land in certain circumstances must hold a permit to allow camping on private land	4
6.11(a), (b) and (c)	Requirement that a person in certain circumstances must hold a permit to use allow the use of a recreational vehicle on private land	3
<b>Part 7 - Waste Management</b>		
7.1(a) to 7.1(g)	Requirements on the owner of land to ensure that septic tanks are maintained in specific ways	4
7.2	Requirement that a person hold a permit to irrigate land with untreated grey water	4
7.3	Requirement that the owner and occupier of a commercial business in a commercial area provide and maintain suitable and sufficient containers for the storage of waste	2
7.4(a), (b) and (c)	Requirements on the owner and occupier of any land with regard to the type, number, placement and removal of refuse and recycling bins	2
Governance	Community <i>Local Law</i> No 1. (2017)	****/**** Adopted by Council: 00 January 201*

Clause	General Description	Infringement Penalty Unit
7.5(a) and (b)	Requirements on a person with regard to the placement of hard waste for hard waste collection	2
7.6(a)	Requirements on a person not to remove, damage or interfere with any hard waste placed out for collection	2
7.6(b)	Requirement not to place additional material in a bin or a hard waste collection placed out by another person	2
7.7(a) and (b)	Requirement that the owner or occupier ensure that their bins and their bin storage area are kept in a clean, inoffensive and sanitary condition.	2
7.7(c)	Requirement that the owner or occupier ensure that any bin is covered by a lid at all times.	2
7.8	Requirement that a person does not deposit any residential, green, trade or commercial waste into a street or park bin.	2
	<b>Part 8 - Animals</b>	
8.1(a)	Requirement that the owner or occupier hold a permit to keep specific types and numbers of animals.	4
8.3(a) and (b)	Requirement that the owner and occupier of any land do not allow any animal or the keeping of that animal to cause a nuisance	2
8.4(a) to (h)	Requirement on the owner or occupier of any premises to keep their animals and maintain their land to specific standards	2
8.5(a) and (b)	Requirements on the owner and occupier of premises as to where animal enclosures must be sited and what standards they must meet	2
8.6(a), (b) and (c)	Requirements as to where a person can construct a stable	4
8.7(a) and (b)	Requirement on the person in control of a dog to not allow any excrement of the dog to remain on and Road, Council Land or Public Place and to carry a suitable litter device at all times.	2
8.8(a)	Requirement that the owner and occupier premises on which livestock are kept is adequately fenced	4
8.8(b)	Requirement that a person must not allow livestock to wander or roam on any Road or Council Land	3
8.8(c) and (d)	Requirement that a person must not without a permit graze or move livestock on a Road	4
Governance	Community <i>Local Law</i> No 1. (2017)	****/**** Adopted by Council: 00 January 201*

Clause	General Description	Infringement Penalty Unit
8.8(f)	Requirement that livestock are moved directly across the road.	2
<b>Part 9 - Fires and Fire Hazards</b>		
9.1	Requirement that a person not light a fire or allow a fire to remain alight unless a permit is obtained.	4
9.1(a) to (c)	Requirement that a person not light or allow to remain alight specific types of refuse	5
9.1(b)3	Requirement that a person who has lit, or allow to remain alight a fire must extinguish it if directed to do so by an Authorised officer	4

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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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Governance	Community <i>Local Law</i> No 1. (2017)	****/****	Adopted by Council: 00 January 201*
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## 11.3 SOCIAL AND ORGANISATIONAL DEVELOPMENT

### 11.3.1 Community Grants Program Round 2

Author: Ian Waugh  
General Manager: Danny Colgan

#### Background

A report was presented to the Ordinary Meeting of the Council held on the 7 November 2018 on the Community Grants Program Round 2, 2018. At the meeting, the Council resolved: *“That Item 11.3.8 - Community Grants Program Round 2, 2018 be deferred for further consideration by Councillors”.*

The purpose of this report is to present Council with an assessment of applications received for the 2018 Round 2 Community Grants, which total \$270,400 per annum. Round 2 of the Community Grants Program opened on August 1 and closed on September 7 2018 (extended deadline). The submission deadline was extended due to technical issues with the Community Grants submission portal.

At the Ordinary Meeting of Council held on 4 October 2017, the Council adopted a revised Community Grants Policy incorporating the Community Development Fund, introducing a Sustainability and Environmental Engagement funding stream, a funding round change from February to March and funding round title changes. This is the second round of community grants under the new adopted policy. This round was the fourth round where community groups were able to submit their applications online. The number of applications being submitted online is now 100%.

Council's Community Grants program enables not for profit community groups to apply for funding under the following three program categories:

- **Arts Grants:** Supporting local artists and organisations to use a creative approach to the development of community projects and initiatives (\$10,000 available this round).
- **Community Strengthening Grants:** Community projects, programs and initiatives with a specific focus on connecting communities and building community capacity (\$60,000 available this round).
- **Events Grants:** Non-recurrent, seed funding designed to encourage and promote the development of sustainable local events (\$10,000 available this round).
- **Community Development Fund Grants:** Supporting community infrastructure projects which significantly impact on community development. One or more projects may be funded up to \$100,000 in this round, with any remaining funding allocated to a second round opening the following March during Round 1 (\$213,226 available in this round).
- **Sustainability and Environment Engagement Grants:** Supporting the community in reducing expenditure of gas and electricity, investing in sustainability measures and providing opportunities to raise awareness of environmental issues to the broader community (\$10,400 in this round).

Community groups and organisations can apply for up to \$5,000 for Community Strengthening Grants and up to \$3,000 for Arts, Events and Sustainability Grants. Groups also need to demonstrate a cash or in-kind contribution toward the cost of their project on a ratio of \$1 for \$1 (Council \$1: Group \$1). Small Community Strengthening projects under \$1,000 are not required to demonstrate a contribution.



Community group and organisation requirements for the Community Development Fund are tabled below:

Funding Thresholds	Requirements
\$5,001 - \$25,000	<ul style="list-style-type: none"> <li>• 3 written quotes</li> <li>• Project plan</li> <li>• Minimum 1:1 matching funds</li> </ul>
\$25,001 - \$50,000	<ul style="list-style-type: none"> <li>• 3 quotes</li> <li>• In-kind ratio maximum 50%</li> <li>• 1 letter of support</li> <li>• Project plan</li> <li>• Minimum 1:1 matching funds</li> <li>• Other funding sources identified</li> </ul>
\$50,001- \$75,000	<ul style="list-style-type: none"> <li>• 3 written quotes</li> <li>• In-kind ratio maximum 30%</li> <li>• 2 letters of support</li> <li>• Masterplan</li> <li>• Design drawings</li> <li>• Project plan</li> <li>• Minimum 1:1 matching funds</li> <li>• Other funding sources identified</li> </ul>
\$75,001, \$100,000	<ul style="list-style-type: none"> <li>• 3 written quotes</li> <li>• In-kind ratio maximum 20%</li> <li>• 3 letters of support</li> <li>• Masterplan</li> <li>• Design drawings</li> <li>• Project plan</li> <li>• Risk management plan</li> <li>• Community consultation plan</li> <li>• Minimum 1:1 matching funds</li> <li>• Other funding sources identified</li> </ul>

The categories under the Community Grants program recognise the diverse range of activities that community groups in Moorabool are engaged in and the areas in need of financial support from Council.

### Applicant Support

The Community Grants Policy specifies that applicant groups are encouraged to meet with a Council Officer prior to lodging an application. The majority of applicant groups in this round received support and advice from Council Officers before lodging their application.

### Policy Assessment Criteria:

- Project Description and why the applicant wants to do the project – 10%
- What will this project achieve? – 20%
- Why is this project needed in your community? – 20%
- Who will be involved in the project? 15%
- How will you carry out your project? (including risk management) – 15%
- Project budget and explanation of how the group arrived at the costs? 20%

Each criterion is assessed out of 10 and weighted according to the criteria percentage. The maximum possible score for any application is 100.

Scoring Guide	
Score each criteria out of 10	
0	Did not address criteria
1-2	Minimal
3-5	Satisfactory
6-8	Good
9-10	Excellent

### Number of applications and amount requested

In total, 28 applications were received across the five program categories: Community Strengthening Grants (14), Community Events Grants (6), Arts and Culture Grants (3), Development Fund Grant (4) and Sustainability and Environmental Engagement Grant (1). A total of \$252,122 was requested with \$404,431 available.

Category	Applications Received	Amount Available	Amount Requested	Amount Recommended
Community Arts	3	\$10,000	\$7,600	\$7,600
Community Strengthening Grant	14	\$60,000	\$36,635	\$23,850
Community Events Grant	6	\$10,000	\$16,000	\$4,000
Community Development Fund Grant	4	\$213,226	\$188,887	\$138,887
Sustainability and Environmental Engagement Grant	1	\$10,400	\$3,000	\$3,000
2017/18 Carry over		\$100,805		
<b>Total</b>	<b>28</b>	<b>\$404,431</b>	<b>\$252,122</b>	<b>\$177,337</b>

### Assessment

Assessment of applications was conducted by a panel of officers across Council units and ranked according to the extent to which the application addressed the policy assessment criteria. Members of the panel score applications individually prior to the panel meeting to discuss the projects and allocate the final aggregated score.

Groups demonstrating a score of 70 or above may be provided with funding if Council so determine.

### Proposal

Based on the assessment process and funding criteria, it is proposed that the Council allocates grants for the *2018 Round 2* of Community Grants as follows:

**Community Arts Grants:**

Groups demonstrating a score of 70 or above may be provided with funding if Council so determine.

Group Name	Project Name	Project Description	Community Arts Grant Requested	Total Project Value	Progressive Total	Policy Score
'WinterKnits' Group	Festival of WinterKnits Ballan	To showcase yarn art in Ballan.	\$3,000	\$6,000	\$3,000	75.94
Gordon Community Fair	Arts Showcase	To establish an arts showcase for the Gordon Community Fair.	\$3,000	\$20,000	\$6,000	72.75
Bacchus Marsh & Melton District Community Theatre Incorporated	Moonlite Theatre	To purchase a portable stage.	\$1,600	\$3,196	\$7,600	70.68
		<b>Total</b>	<b>\$7,600</b>	<b>\$29,196</b>		

**Community Strengthening Grants:**

Groups demonstrating a score of 70 or above may be provided with funding if Council so determine.

Group Name	Project Name	Project Description	Community Strengthening Grant Requested	Total Project Value	Progressive Total	Policy Score
Moorabool Catchment Landcare Group	Cultural Indigenous Heritage Workshop and Educational Awareness Activities	To organise a workshop on cultural indigenous heritage, cultural land management and how to protect any sensitive sites.	\$4,300	\$10,300	\$4,300	84.55

Group Name	Project Name	Project Description	Community Strengthening Grant Requested	Total Project Value	Progressive Total	Policy Score
Darley Neighbourhood House and Learning Centre	Attractive Versatile Learning Spaces at DNH	To upgrade facilities and equipment.	\$3,000	\$6,000	\$7,300	82.25
Conservation Volunteers Australia	James Whyte Island Reserve Walking Track	To provide signage for nature walks.	\$4,800	\$15,440	\$12,100	80.08
Bacchus Marsh Netball Association	Junior Development Program	To provide equipment and coaching accreditation for a netball squad.	\$1,000	\$1,789	\$13,100	79.43
Ballan Tennis Club	Junior Coaching Program	To provide a coaching program for the junior tennis club.	\$3,060	\$6,120	\$16,160	78.25
Elaine Mechanics Institute Committee of Management	Community Engagement	To purchase a generator and install external power points.	\$5,000	\$10,000	\$21,160	75.58
Bacchus March Friendship Quilters Inc	Charity Quilts	To purchase materials to make patchwork quilts for local charities.	\$950	\$1,235	\$22,110	74.33
Ballan Brumbies Basketball Club	Practice backboards	To install three practice backboards at the Ballan Gymnasium.	\$840	\$1,290	\$22,950	74.23
Moorabool Makers (Charity Craft Group)	Craft for charity	To make garments and rugs for vulnerable people.	\$900	\$900	\$23,850	71.08
Elaine Cricket Club Inc	Playing shirts	To purchase uniforms for the cricket club.	\$1,000	\$1,169	\$24,850	67.63
Elaine Tennis Club Inc	Club uniforms	To purchase new shirts and skirts for the junior tennis players.	\$978	\$978	\$25,828	65.70

Group Name	Project Name	Project Description	Community Strengthening Grant Requested	Total Project Value	Progressive Total	Policy Score
Clarendon Recreation Reserve	Hub building	To purchase equipment for the new hall.	\$4,807	\$9,614	\$30,635	62.20
Ballan bowling club	Bore water upgrade	To purchase new uniforms for the bowling club.	\$5,000	\$7,000	\$35,635	61.75
Bacchus Marsh Little Athletics Centre	High Jump Mat replacement	To purchase a small high jump mat.	\$1,000	\$1,250	\$36,635	59.38
		<b>Total</b>	<b>\$36,635</b>	<b>\$73,085</b>		

**Community Events Grants:**

Groups demonstrating a score of 70 or above may be provided with funding if Council so determine.

Group Name	Project Name	Project Description	Community Events Grant Requested	Total Project Value	Progressive Total	Policy Score
Bacchus Marsh Little Athletics Centre <b>(This event is scheduled to take place on 1 December 2018)</b>	50th Celebrations	To celebrate the Bacchus Marsh Little Athletics Centre's 50th season.	\$3,000	\$6,710	\$3,000	79.20
Run Ballan	Run Ballan Signage	To install permanent signage to create community awareness of our event.	\$1,000	\$2,150	\$4,000	71.03
Djerriwarrh Health Services	Longest Lunch	To raise funds for medical equipment.	\$3,000	\$6,000	\$7,000	66.70

**Ineligible Community Event Grant Applications**

Group Name	Project Name	Project Description	Community Events Grant Requested	Total Project Value	Progressive Total	Reason
Monster Mash	Monster Mash	Halloween event for youth	\$3,000	\$5,600	\$10,000	The application was incomplete with limited detail. The applicant was contacted prior but declined to revise the application. Funding being sought was retrospective as the event took place in October. This is an ongoing annual event that has received support through Council's Youth Services.
BM Aquatic Community Consortium	BM Flower Show	Raise funds for indoor aquatic centre	\$3,000	\$33,714	\$13,000	The application was Incomplete with limited detail. The activity is an ongoing annual event that is a fundraiser for the proposed Aquatic Centre. Funding being sought was retrospective due to the time lines of event. Applicant declined to revise application.
Webb Events Group & B3 Community	BM Christmas Festival	Christmas festival with carols	\$3,000	\$15,000	\$16,000	The applicant is ineligible to receive a grant as it is a commercial operator not a community organisation.
		<b>Total</b>	<b>\$16,000</b>	<b>\$69,174</b>		

**Community Development Fund Grants:**

Groups demonstrating a score of 70 or above may be provided with funding if Council so determine.

Group Name	Project Name	Project Description	Community Development Fund Grant Requested	Total Project Value	Progressive Total	Policy Score
Bacchus Marsh Harness Racing Club	Harness Racing Track Redevelopment	To redevelop the Harness Racing Track to an industry standard 900 metre track with cambered turns and transitions.	\$100,000	\$398,876	\$100,000	80.93
Elaine Mechanics Institute Hall	Floorboard and external cladding	To replace floor and cladding at the Elaine Town Hall.	\$25,000	\$50,000	\$125,000	80.50
Mount Wallace Hall and Reserve	Power and Fencing Project	To provide playground fencing and lighting upgrade at Mount Wallace Hall.	\$13,887	\$27,774	\$138,887	75.03
Australian Working Dog Rescue LTD	Moorabool Stock Dog Club	To finish upgrading stockyards for dog training.	\$50,000	\$125,000	\$188,887	58.98
		<b>Total</b>	<b>\$188,887</b>	<b>\$601,650</b>		

**Sustainability and Environmental Engagement Grants:**

Groups demonstrating a score of 70 or above may be provided with funding if Council so determine.

Group Name	Project Name	Project Description	Community Grant Amount Requested	Total Project Value	Progressive Total	Policy Score
Dunnstown Cricket Club	Hall lights	To replace internal fluorescent lighting at the Dunnstown Community Centre with more environmentally friendly LED lighting.	\$3,000	\$ 4,290	\$3,000	80.98
		<b>Totals</b>	<b>\$3,000</b>	<b>\$4,290</b>		

**Policy Implications**

The 2017 - 2021 Council Plan provides as follows:

**Strategic objective 4**            Improving social outcomes

**Context 4b**                      Community connectedness and capacity

The proposed allocation of grants under the 2018 Round 2 Community Grants Program is consistent with the 2017-2021 Council Plan.

**Financial Implications**

Consistent with the Community Grants Policy and 2018/19 budget allocation, a total of \$404,431 is available for allocation in Round 2 *Community Grants Program*.

The following amounts are recommended:

- \$7,600 for Arts and Culture Grants
- \$23,850 for Community Strengthening Grants
- \$4,000 for Community Events Grants
- \$138,887 for Community Development Fund Grants
- \$3,000 for Sustainability and Environmental Engagement Grants

The total grant funding being recommended for allocation this round is \$177,337.

**Risk & Occupational Health & Safety Issues**

Risk Identifier	Detail of Risk	Risk rating	Control/s
Project timelines	Grant recipients exceeding prescribed timelines	Medium	Terms and conditions agreements required to be signed by grant recipients Scheduled monitoring of projects
Financial	Grant recipients appropriate expenditure of Council funds	Medium	Terms and conditions agreements required to be signed by grant recipients Grant acquittal required upon completion of projects



**Community Engagement Strategy:**

<b>Level of Engagement</b>	<b>Stakeholder</b>	<b>Activities</b>	<b>Location</b>	<b>Outcome</b>
Consult	Unsuccessful former applicants	<ul style="list-style-type: none"> <li>• Direct phone calls</li> <li>• Direct emails</li> </ul>		MSC provided guidance and advice. Former applicants resubmitted improved grants
Consult	Community Groups	<ul style="list-style-type: none"> <li>• Direct email to Moorabool community/not for profit groups</li> </ul>	Various	MSC provided guidance and advice. Applicants supported to submit applications
	Moorabool residents	<ul style="list-style-type: none"> <li>• Flyers in library books and displayed through the Moorabool libraries</li> </ul>	Various	Broader community reach and awareness of the Community Grants Program. Steer people to the website, which contains all required information to plan for as well as make their application.

Level of Engagement	Stakeholder	Activities	Location	Outcome
		<ul style="list-style-type: none"> <li>• Promotional Flyers displayed on all noticeboards throughout shire</li> </ul>	<ul style="list-style-type: none"> <li>• Darley Early Years Hub</li> <li>• Community Noticeboards:                             <ul style="list-style-type: none"> <li>➢ Mt Egerton</li> <li>➢ Gordon</li> <li>➢ Lal Lal</li> <li>➢ Bungaree</li> <li>➢ Blackwood</li> <li>➢ Yendon</li> <li>➢ Greendale</li> <li>➢ Dunnstown</li> <li>➢ Wallace</li> </ul> </li> <li>• Local Businesses:                             <ul style="list-style-type: none"> <li>➢ Main St BM</li> <li>➢ Darley</li> <li>➢ Supermarkets BM and Ballan</li> </ul> </li> <li>• Darley Neighbourhood House</li> <li>• Ballan &amp; District Community House</li> <li>• BM Leisure Centre</li> <li>• Visitors Centre</li> </ul>	
		<ul style="list-style-type: none"> <li>• Promotional posts on MSC Facebook pages</li> <li>• Promotional and informative posts on MSC website</li> <li>• Community Facebook Page</li> </ul>	<ul style="list-style-type: none"> <li>• Website events page</li> <li>• Website community page</li> <li>• Corporate Facebook page</li> <li>• Leisure Centre Facebook page</li> <li>• Youth Facebook Page</li> </ul>	<p>Broader community reach and awareness of the Community Grants Program.</p> <p>Steer people to the website, which contains all required information to plan for as well as make their application.</p>

Level of Engagement	Stakeholder	Activities	Location	Outcome
		<ul style="list-style-type: none"> <li>• Promotional articles published in the following MSC publications</li> </ul>	<ul style="list-style-type: none"> <li>• Moorabool Matters</li> <li>• Moorabool News - What's on Section</li> <li>• AACA Newsletter</li> <li>• Library Newsletter</li> <li>• Enews - Economic Development</li> <li>• Internal Newsletters</li> </ul>	Broader community reach and awareness of the Community Grants Program. Steer people to the website, which contains all required information to plan for as well as make their application.
	Rural/ Isolated Moorabool residents	Promotional visits to isolated and rural areas, accompanying the Moorabool Shire Library Van to library van stops	<ul style="list-style-type: none"> <li>• Gordon</li> <li>• Elaine</li> <li>• Ballan</li> <li>• Bungaree</li> <li>• Mount Egerton</li> <li>• Dunnstown</li> <li>• Lal Lal</li> <li>• Blackwood</li> </ul>	Broader community reach and awareness of the Community Grants Program. Steer people to the website, which contains all required information to plan for as well as make their application.
Engage	Unsuccessful former applicants	<ul style="list-style-type: none"> <li>• Face to face meetings</li> </ul>		MSC provided guidance and advice. Former applicants resubmitted improved grants
	Community Groups	<ul style="list-style-type: none"> <li>• Meetings with applicant groups</li> <li>• Community Grant Writing Workshop</li> </ul>	Various	MSC provided guidance and advice. Applicants supported to submit applications

By engaging the community through various channels there has been a considerable increase in activity on the Community Grants Program website page. In comparison to Round 2 Community Grants Program 2017, page views for Round 2 Community Grants Program 2018 has increased by 41.05% while individual users accessing the Community Grants Program website page has increased by 32.68%.

### **Communications and Consultation Strategy**

Applicants for the *2018 Round 2* of Community Grants program have been notified that they will now be informed of the outcomes of their grant applications in December 2018.

Community Development and Recreation Officers will formally notify groups of the outcome of their applications and provide opportunity for feedback to unsuccessful applicant groups.

Feedback will include:

- Advice to applicant groups of the relative strengths and areas for improvement in their application.
- Options for alternative funding (if applicable).
- Supporting a group to amend and re-lodge their application in the next appropriate round of the Community Grants program.

### **Victorian Charter of Human Rights and Responsibilities Act 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

### **Officer's Declaration of Conflict of Interests**

Under section 80C of the *Local Government Act 1989* (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Danny Colgan*

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

*Author – Ian Waugh*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

### **Conclusion**

Applications received under the *2018 Round 2* of Community Grants are reflective of the diverse range of activities that community groups are engaged in and the areas in need of financial support from Council. In total, 28 applications were received across the five program categories: Community Strengthening Grants (14), Community Events Grants (6), Arts and Culture Grants (3), Development Fund Grant (4) and Sustainability and Environmental Engagement Grant (1).

**Recommendation:**

- 1. That Council allocates the following grants in the Community Arts and Culture Grant category:**

Organisation Name	Project name	Amount
'WinterKnits' Group	Festival of WinterKnits	\$3,000
Gordon Community Fair	Arts Showcase	\$3,000
Bacchus Marsh & Melton District Community Theatre Incorporated	Moonlite Theatre	\$1,600
	<b>Total</b>	<b>\$7,600</b>

- 2. That Council allocates the following grants in the Community Strengthening Grant category:**

Organisation Name	Project name	Amount
Moorabool Catchment Landcare Group	Cultural Indigenous Heritage Workshop and Educational awareness activities	\$4,300
Darley Neighbourhood House and Learning Centre	Attractive Versatile Learning Spaces at DNH	\$3,000
Conservation Volunteers Australia	James Whyte Island Reserve Walking Track	\$4,800
Bacchus Marsh Netball Association	Junior Development Program	\$1,000
Ballan Tennis Club	Junior Coaching Program	\$3,060
Elaine Mechanics Institute Committee of Management	Community Engagement	\$5,000
Bacchus March Friendship Quilters Inc.	Charity Quilts	\$950
Ballan Brumbies Basketball Club	Practice backboards	\$840
Moorabool Makers (Charity Craft Group)	Craft for charity	\$900
	<b>Total</b>	<b>\$23,850</b>

**3. That Council allocates the following grants in the Community Events Grant category:**

Organisation Name	Project name	Amount
Bacchus Marsh Little Athletics Centre	50th Celebrations	\$3,000
Run Ballan	Run Ballan Signage	\$1,000
	<b>Total</b>	<b>\$4,000</b>

**4. That Council allocates the following grants in the Community Development Fund Grant category:**

Organisation Name	Project name	Amount
Bacchus Marsh Harness Racing Club	Harness Racing Track Redevelopment	100,000
Elaine Mechanics Institute Hall	Floorboard and external cladding	\$25,000
Mount Wallace Hall and Reserve	Power and Fencing Project	\$13,887
	<b>Total</b>	<b>\$138,887</b>

**5. That Council allocates the following grants in the Sustainability and Environmental Engagement Grant category:**

Organisation Name	Project name	Amount
Dunnstown Cricket Club	Hall lights	\$3,000
	<b>Total</b>	<b>\$3,000</b>

**6. That all applicants be notified in writing of the outcome of their application.**

**7. That Council Staff provide feedback to unsuccessful groups and provide suggestions for alternative funding (if applicable) or how the group may choose to improve and re-develop their application for submission to the next appropriate round of the Community Grants program.**

**Report Authorisation**

**Authorised by:**   
**Name:** Danny Colgan  
**Title:** General Manager Social & Organisational Development  
**Date:** Friday, 23 November 2018

### **11.3.2 Instrument of Appointment and Authorisation of Council Officers under Section 147(4) of the Planning and Environment Act 1987**

#### **Introduction**

Author: Michelle Morrow  
General Manager: Danny Colgan

Under section 147(4) of the *Planning and Environment Act 1987* (the Act), Council must appoint authorised officers for the purposes and regulations made under the Act.

#### **Background**

Section 232 of the *Local Government Act 1989* authorises the relevant officers generally to institute proceedings for offences against the Acts and Regulations described within the proposed instrument of appointment and authorisation.

#### **Proposal**

In order to comply with the *Planning and Environment Act 1987* and the *Local Government Act 1989*, an Instrument of Appointment and Authorisation is now presented to the Council, as **Attachment 11.3.2**, requesting that the officers named in that Instrument be hereby appointed for the purposes of section 147(4) of the *Planning and Environment Act 1987* and the regulations made under that Act and section 232 of the *Local Government Act 1989* for the purpose generally to institute proceedings for offences against the Acts and regulations described in the instrument.

The change to this Instrument reflects the departure of staff within the Planning and Environmental Health service units along with the following:

Commencement of Liam Prescott	Strategic Planner
Commencement of Ana Mitrov	Strategic Planner

#### **Policy Implications**

The Council Plan 2017 – 2021 provides as follows:

**Strategic Objective 1:** Providing good governance and leadership

**Context 1C:** Our business and systems

The preparation of this Instrument of Appointment and Authorisation of Council Officers under section 147(4) of the *Planning and Environment Act 1987* is consistent with the 2017 - 2021 Council Plan.

#### **Financial Implications**

No financial implications to Council.

## **Risk & Occupational Health & Safety Issues**

No Risk and Occupational Health and Safety issues apply to Council unless the relevant Council officers do not receive the appropriate instrument of appointment and authorisation from Council.

## **Victorian Charter of Human Rights and Responsibilities Act 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

## **Officer's Declaration of Conflict of Interests**

Under section 80C of the *Local Government Act 1989* (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Danny Colgan*

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

*Author – Michelle Morrow*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

## **Conclusion**

Council is obliged to comply with section 147(4) of the *Planning and Environment Act 1987* therefore the attached Instrument of Appointment and Authorisation is required to be approved under the Seal of Council.

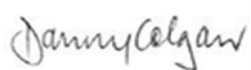
## **Recommendation:**

**That Council approves, under the common seal of Council, the attached Instrument of Appointment and Authorisation of Council officers under section 147(4) of the *Planning and Environment Act 1987*.**

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## **Report Authorisation**

Authorised by:



Name: Danny Colgan

Title: General Manager Social and Organisational Development

Date: Friday 23 November 2018



# Attachment - Item 11.3.2



## **Moorabool Shire Council**

### **Instrument of Appointment and Authorisation**

***(Planning and Environment Act 1987 only)***

**December 2018**

## **Instrument of Appointment and Authorisation (Planning and Environment Act 1987)**

In this instrument, the member of Council staff holding, or performing the duties of, the office or position hereunder are appropriate officers appointed or authorised in respect of the relevant legislation:

<b>Officer</b>	<b>Position</b>	<b>Position Abbreviation</b>
Allan Leslie May	Environmental Health Technical Officer	[EHTO]
Ana Mitrov	Strategic Planner	[STP]
Andy Gaze	Coordinator Community Health and Safety	[CCHS]
Bronwyn Southee	Coordinator Statutory Planning.	[CSP]
Debbie Anne Frappa	Statutory Planning Enforcement Officer	[SPEO]
Faye Laskaris	Senior Environmental Health Officer	[SEHO]
Glenn Burns	Senior Community Safety Officer	[SCSO]
Julie Menzies	Senior Environmental Health Officer	[SEHO]
Justin Horne	Coordinator Environmental Planning	[CEP]
Liam Prescott	Strategic Planner	[STP]
Mark Lovell	Senior Statutory Planner	[SSP]
Robert Fillisch	Manager Statutory Planning & Community Safety	[MSPCS]
Rod Davison	Senior Strategic Planning Officer	[SSTPO]
Samuel Duff	Statutory Planner	[SP]
Sara Douglas	Community Safety Officer	[CSO]
Sarah Kernohan	Coordinator Strategic Planning	[CSTP]
Satwinder Sandhu	General Manager Growth and Development	[GMGD]
Simon Glenister	Statutory Planning Enforcement Officer	[SPEO]
Thomas Tonkin	Statutory Planner	[SP]
Vanessa Osborn	Statutory Planning Project Officer	[SPPO]
Victoria Mack	Statutory Planner	[SP]

**By this instrument of appointment and authorisation Moorabool Shire Council –**

1. under section 147(4) of the *Planning and Environment Act 1987* – appoints the abovementioned officers to be authorised officers for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
2. under section 232 of the *Local Government Act 1989* authorises the abovementioned officers generally to institute proceedings for offences against the Acts and regulations described in this instrument.

**It is declared that this instrument –**

- (a) comes into force immediately upon its execution; and
- (b) remains in force until varied or revoked.

This instrument is authorised by a resolution of the Moorabool Shire Council on Wednesday 5 December 2018.

The **COMMON SEAL** of the  
**MOORABOOL SHIRE COUNCIL**  
was affixed this Wednesday 5 December 2018  
in the presence of –

.....Mayor

## 11.4 INFRASTRUCTURE

### 11.4.1 Consideration of Rate Cap Variation for 2019/20

#### Introduction

File No.: 07/01/011  
Author: Steve Ivelja  
General Manager Phil Jeffrey

The purpose of this report is for Council to resolve the matter of whether it seeks to apply for a rate cap variation for the 2019/20 budgeting and planning cycle.

#### Background

In the 2016/17 financial year, Moorabool Shire Council applied to the Essential Services Commission (the ESC) for a rate cap variation. Moorabool Shire was one of 9 Victorian Councils (out of 78) that applied to the ESC. Of the 9 Councils that applied, 6 Councils were successful in receiving either a full or a partial rate cap exemption. Moorabool Shire was one of only 2 Councils that received 'unqualified' support from the ESC to increase rates above the established Ministers Rate Cap of 2.5%.

Councils original rate cap application in 2016/17 was based on four years of rate cap variations. However, at the time, due to the "Fair Go Rates" legislation being in the first year of its operation, Council was only allowed to apply for a one year variation.

For 2017/18 and 2018/19, Council elected to not apply for further rate cap variations. The decision to not apply for a rate cap variation reflects the Councils desire to maintain its levels of service and infrastructure at current levels.

There is a necessity for Council to resolve the matter of whether it plans to apply for a rate cap variation to enable adequate lead time for Officers to develop a project plan if necessary.

#### Community Engagement

If Council elects to apply for a rate cap variation, a detailed Community Engagement plan would need to underpin any application.

#### Proposal

That Council resolve the matter of whether it seeks to apply for a rate cap variation for the 2019/20 budgeting and planning cycle.

#### Policy Implications

The 2017 - 2021 Council Plan provides as follows:

<b>Strategic Objective 1:</b>	Providing Good Governance and Leadership
<b>Strategic Context 1C:</b>	Our Business and Systems
<b>Strategic Action 4:</b>	Financial Sustainability

The proposal is consistent with the 2017-2021 Council Plan.

### Financial Implications

Depending on whether Council elects to apply for a rate cap variation for the 2019/20 year and beyond, there will be a disparity in the level of funds it will have at its disposal to invest for the benefit of the community.

### Risk & Occupational Health & Safety Issues

The financial stability of Council is identified in Councils Strategic Risk profile. Based on Council rates being capped at between 2.0% - 2.50% in 2019/20 (subject to confirmation) and projected CPI for future years, Council has currently assessed its ongoing financial sustainability as a medium risk. A number of controls are in place to manage the ongoing financial sustainability of Council.

Risk Identifier	Detail of Risk	Risk Rating	Control/s
Financial stability of Council	Limited funding or significant changes in funding sources limiting ability to deliver on Council's objectives.	Medium	<p>Long term financial plan in place to document and review Council's Financial position and assist with strategic management of council's finances.</p> <p>Regular financial reporting to Audit &amp; Risk Advisory Committee aligns with Council reporting</p> <p>Adherence to financial metrics as identified by VAGO and the LGPRF</p> <p>Focus on advocacy to support achievement of identified community needs</p> <p>External audits of financial accounts undertaken on an annual basis.</p> <p>Service Review and Planning Policy and Framework implementation</p> <p>Each service undertaking a review of their services every three to five years</p> <p>Linking asset plans, community infrastructure plans and service plans to Council's Long Term Financial Plan</p> <p>Borrowing funds within a sound financial management framework as a mechanism to finance major projects, as it spreads the payments for such assets across the generations who benefit</p>

			<p>Cost control and identifying opportunities to increase revenue streams</p> <p>Applying for a rate cap variation where required</p>
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**Communications and Consultation Strategy**

The communication and consultation strategy is contingent upon Councils decision as to whether it resolves to apply for a variation.

**Victorian Charter of Human Rights and Responsibilities Act 2006**

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

**Officer's Declaration of Conflict of Interests**

Under section 80C of the *Local Government Act 1989* (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Phil Jeffrey*

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

*Author –Steve Ivelja*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

**Conclusion**

Council currently awaits the ministerial announcement of the rate cap for 2019/20. It is currently anticipated that the rate cap will be set at between 2.0% - 2.5%.

Whilst working within the confines of the rate cap continues to present challenges, Moorabool Shire has managed to gradually stabilise and improve its finances in a difficult environment. In the intervening years since Council originally applied for a rate cap variation Council has indicated a desire to not seek a further rate cap variation.

Council may need to consider or re-assess its position in future years especially where the continued maturity in Councils Asset Management systems indicate the existence of assets backlogs and / or insufficient funding to satisfy asset renewal demand.

Equally, if the Council wishes to expand or increase its levels of services and infrastructure beyond the relatively limited constraints of the current strategic financial plan, it may need to consider the option of applying for a rate cap variation in future years.

**Recommendation:**

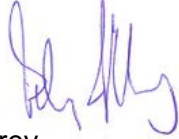
**That the Council resolves to not apply for a rate cap variation for the 2019/20 financial year.**

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**Report Authorisation**

**Authorised by:**

**Name:** Phil Jeffrey  
**Title:** General Manager Infrastructure  
**Date:** Thursday, 15 November 2018





## 11.4.2 Review of Property Rate Debt Management Policy

### Introduction

Author: Jacinta Erdody  
General Manager: Phil Jeffrey

### Background

Council last adopted the Property Rate Debt Management Policy in July 2015 and at this time the Policy was adopted for a three year period. Overall the Policy and its contents continues to work well and provides a consistent framework for managing the collection and escalation of property rate accounts.

A summary of proposed amendments to the policy are summarised as part of this report and shown below.

### Proposal

Below is a summary of the proposed changes to the policy through this review:

- Reminders for Instalment and Full Payment accounts to be posted on Council's Social Media avenues at the same time reminders are placed in Moorabool News; - the rationale for this change reflects the expanded communication platforms that Moorabool Shire has at its disposal since the policy was last adopted.
- Within the escalation of accounts to the appointed Collection Agency, prior to a Complaint being issued, the appointed debt collection agency will endeavour to conduct a Field call to the rated address or mailing address as final attempt to engage a ratepayer in conversation about the outstanding rate debt; - the rationale for the inclusion of this amendment is to reflect best practice. It is also noted that this step is currently part of Moorabool Shires current debt collection practice.
- The threshold for the issue of complaints has been raised from \$1,000 to \$1,500 due to increasing costs with the Magistrates Court for the issue of a Complaint; - the rationale for this change is to ensure that the costs of legal action are proportional and reasonable relative to the overall rate debt and seeks to maintain a fair and balanced approach to the instigation of legal action.
- Where an application for the waiver of interest and/or costs is approved, if future accounts are not paid in accordance with the required payment dates Council will have the right to re-instate any previously waived interest and/or costs; - the rationale for this change reflects continued learnings from the property and rate debt management process. The aim is to ultimately ensure that waiver of interest and /or cost is tied to future good conduct and aims to incentivise ratepayers maintaining their rates account going forward.
- Provisions for unclaimed excess sales monies from properties sold under provisions of the Local Government Act 1989 Section 181; - the rationale for this is to ensure that any excess funds from property sales be used to offset sales that have not covered the full cost of outstanding debt or be used to defray the write off of debt deemed as unrecoverable.

- Changes to the level of delegations for Waiver of Interest and/or costs to ensure smoother operation of policy without escalation for lower value waivers; - the rationale for this change seeks to ensure appropriate management intervention based on the materiality of the request and also reflects that the delegations have not changed for a number of years. The proposed changes to the delegations for interest and/or costs is proposed as follows;

Waiver of interest and/or costs*	Up to <del>\$500</del> \$1,000	Revenue Services & Procurement Coordinator
Waiver of interest and/or costs*	> <del>\$500</del> \$1,000 and < <del>\$1000</del> \$5,000	Chief Financial Officer
Waiver of interest and/or costs*	> <del>\$1,000</del> \$5,000	General Manager Infrastructure

- The provisions for low value waiver of rates where there are Council administrative errors- the rationale for this is to ensure where there are instances requiring the write off of low value / immaterial rates and charges (for e.g. due to administrative errors) that the Chief Financial Officer be duly authorised to approve these negating the need for council approval as is currently required. The proposed changes to the delegations for interest and/or costs is proposed as follows;

Waiver of Rates and Charges as a result of administrative errors	Up to \$1,000	Chief Financial Officer
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**Consideration**

The policy protocol relating to the consideration of items which affect beyond the current year is applied for consideration of matters whose impact or influence will extend to directly affect the activities and/or financial planning of Council for a period beyond the term of the Current Council Budget, and whether relating to Council policy pronouncements or specific projects.

**Policy Implications**

The Council Plan 2017-2021 provides as follows:

**Strategic Objective 1:** Providing Good Governance and Leadership

**Context 1C:** Our Business and Systems

The proposal for the review and updated of the Property Rate Debt Management Policy is consistent with the Council Plan 2017 – 2021.

**Financial Implications**

There are no known financial implications as a result of the proposed changes within the Property Rate Debt Management Policy.

## Community Engagement Strategy

Level of Engagement	Stakeholder	Activities	Outcome
Advise	Ratepayers	Communication of policy with ratepayers through day to day conversations	Informed Ratepayers

## Communications and Consultation Strategy

Following review and adoption of the updated Policy, the updated Policy will be uploaded to Council's web site.

## Victorian Charter of Human Rights and Responsibilities Act 2006

In developing this report to Council, the officer considered whether the subject matter raised any human rights issues. In particular, whether the scope of any human right established by the Victorian Charter of Human Rights and Responsibilities is in any way limited, restricted or interfered with by the recommendations contained in the report. It is considered that the subject matter does not raise any human rights issues.

## Officer's Declaration of Conflict of Interests

Under section 80C of the *Local Government Act 1989* (as amended), officers providing advice to Council must disclose any interests, including the type of interest.

*General Manager – Phil Jeffrey*

In providing this advice to Council as the General Manager, I have no interests to disclose in this report.

*Author – Jacinta Erdody*

In providing this advice to Council as the Author, I have no interests to disclose in this report.

## Conclusion

Overall the Property & Rate Debt Management policy provides a consistent framework for the collection and escalation of Council's property rate accounts. The proposed amendments seek to ensure that the policy continues to meet operational requirements over coming years.


## Recommendation:

1. That Council receives the Property & Rate Debt Management Policy; and,
2. That, in accordance with Moorabool Shire Council Policy Protocol, 'Consideration of items which affect beyond the Current Year', the following Property Rate Debt Management Policy (Version 4) as attached, now lay on the table for further consideration at the next Ordinary Meeting of Council.

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## Report Authorisation

Authorised by:

  
**Name:** Phil Jeffrey  
**Title:** General Manager Infrastructure  
**Date:** Monday, 26 November 2018

# Attachment - Item 11.4.2

# Property Rate Debt Management Policy



**Policy Type:** COUNCIL  
**Version:** 004  
**Date Adopted:**  
**Service Unit:** Revenue Services and Procurement  
**Directorate:** Infrastructure  
**Review Date:**

## 1. Purpose

The purpose of this Council Policy is to establish a framework for Moorabool Shire Council to manage and implement a consistent approach to the collection of property rates and charges that is consistent with Council's Strategic Objectives.

## 2. Definitions

MSC	Moorabool Shire Council
RS&PC	Revenue Services and Procurement Co-ordinator
CFO	Chief Financial Officer
LGA	Local Government Act 1989

## 3. Scope

This policy will apply to Council, its employees and its contracted service providers, in particular all staff of the Revenue Services Team and Council's contracted Debt Collection Agency.

## 4. Policy

The purpose of this policy is to ensure that the Revenue Services Team has clearly documented guidelines for the efficient and consistent collection of all outstanding property rate accounts. It will take into account all payment options that can be managed within the Revenue Services Team and aims to:

- Establish principles to apply to the overall collection of property rate accounts;
- Establish options of payment (Full, Instalment, Alternative and Special Arrangements);
- Identify the type of assistance that may be offered by Council; and
- Establish guidelines for the assessment of financial hardship applications.

### 4.1. Principles and Objectives

#### 4.1.1. Principles and Objectives

- To ensure all debts owed to Council are paid, where possible, by the due date and followed up within specified timeframes;
- To ensure a fair, equitable and accountable approach to Council's debt management and collection decisions and practices;

# Property Rate Debt Management Policy

- Council has a responsibility to recover monies owing to it in a timely and efficient manner to finance its operations and ensure effective cash flow management;
- Council aims to minimise the amount of outstanding monies that it is owed;
- Rate debtors are expected to take responsibility of their Council debt obligations and to organise their affairs in such a way as to be able to discharge these obligations when required;
- Council and its officers will explain the rate debtor's rights and obligations in relation to any action that Council might take to recover debt;
- Council will not instigate legal action without the debtor first being advised of such action via their registered mail address held by Council. However, Council will proceed with legal action without further notice where:
  - A debtor fails to respond to communications from Council; or
  - Fails to enter into realistic arrangements to meet outstanding debt; or
  - Fails to meet repayments as agreed;
- Establish the framework for the Council and ratepayers to consider applications for financial hardship.

## 4.2. Issue of Notices and Legislated Payment Options

### 4.2.1. Issue of Annual Rate and Valuation Notices

Annual Rate and Valuation notices are generally issued towards the end of August or start of September in accordance with adopted budget and approved General Valuations being applied.

### 4.2.2. Legislated Payment Options for Property Rate Accounts

Payment Due Dates: (in each financial year)	1 <sup>st</sup> Instalment	30 September
	2 <sup>nd</sup> Instalment	30 November
	3 <sup>rd</sup> Instalment	28 February
	4 <sup>th</sup> Instalment	31 May
	Full Payment	15 February

If any of the above dates fall on a non-business day, the payment date is moved to the next business day.

### 4.2.3. Legislated Payment Option - Instalments

After the issue of the annual Rate and Valuation notice, those ratepayers who have elected to pay their rates via the instalment method will be issued with reminder notices for the remaining three instalments, at least fourteen days prior to the legislated payment date.

# Property Rate Debt Management Policy



The week prior to the instalment due date, a small reminder notice will be placed in the Moorabool News, reminding ratepayers of the instalment due date and at the same time the reminder will be posted on Council's Social Media avenues.

Within fourteen (14) days after the due date for each of the second, third and fourth instalments, a penalty interest update will occur and a reminder notice will be issued to all instalment ratepayers who have failed to meet the full payment of the instalment amount.

Reminder letters will allow a further ten (10) days to pay the outstanding balance (including incurred penalty interest) in full or contact the Revenue Services Team to negotiate a suitable special payment arrangement.

Instalment accounts will not be escalated to Council's Debt Collection Agency until after the final instalment due date (4<sup>th</sup> Instalment) and only if communication and a suitable payment arrangement has not been entered into with the ratepayer at the date.

If there is no communication from the ratepayer after the date for payment in the reminder notice for the fourth instalment due date, the account may be referred to Council's Debt Collection Agency in accordance with provisions of this Policy.

#### *4.2.4. Legislated Payment Option – Full Payment (Lump Sum)*

Approximately three weeks prior to the full payment due date, an advertisement will be placed in the local newspaper (Moorabool News and Ballarat Courier) and a post will be made on Council's Social Media avenues reminding ratepayers of their obligations to pay their annual rates and charges by the legislated due date.

Ten (10) days after the legislated full payment date, reminder letters will be issued to ratepayers who have not paid the full payment amount. The reminder letter will not have any penalty interest calculated and will allow ratepayers a further seven (7) days to pay their accounts penalty free.

Five (5) working days after the reminder letter due date, a penalty interest update will occur and a final notice will be sent to all full payment ratepayers who have failed to meet the full payment amount.

If there is no communication from the ratepayer after the date for payment in the final notice the account may be referred to Council's Debt Collection Agency in accordance with provisions of this Policy.

**Legislation:** LGA – Section 167 – Payment of Rates and Charges

#### **Policy Statement**

*Council will allow the payment of rates via a lump sum payment by the date set by the Minister and declared in the Government Gazette.*

# Property Rate Debt Management Policy

## 4.3. Alternative and Additional Payment Options

### 4.3.1. Alternative Instalment Payment Option

To assist ratepayers in managing their finances, Council will offer ten equal instalments over each financial year at nominated dates. If the ratepayer wishes to pay via this option they will need to sign into the direct debit payment channel and Council will automatically process payments on each months nominated date.

**Legislation:** LGA – Section 167 – Payment of Rates and Charges

#### **Policy Statement**

*Council will provide 10 monthly instalment payments within each financial year period for the payment of Rates and Charges.*

*Council will not calculate and levy interest on these accounts where payments are made by the designated monthly dates.*

*Ratepayers opting for this payment option must pay via the direct debit payment channel.*

### 4.3.2. Additional Payment Options

If ratepayers opt to pay their rates via the direct debit payment channel, they can elect to “pay off” their annual rates by the full payment lump sum date via regular weekly, fortnightly or monthly payments between September and February each year.

The rationale is that weekly payments made between 1 September and 15 February (approximately 23 weekly payments) could be more easily managed, in comparison to being able to meet the complete amount in one payment.

**Legislation:** NIL

#### **Policy Statement**

*Council will provide additional payment frequencies within the declared full payment date, to assist ratepayers in managing their debts and utilising the direct debit payment channel.*

### 4.3.3. Special Payment Arrangement Options

Ratepayers experiencing financial difficulties who are unable to pay outstanding rates and charges via the legislated full payment or instalment options, or the other additional payment options outlined in this policy can apply to Council’s Revenue Services Team to pay via a special payment arrangement.

Special Payment Arrangement accounts must maintain regular payments (weekly, fortnightly or monthly) and if entered into early enough can ensure that penalty interest is not incurred. However, Special Payment Arrangements which continue past the legislated payment dates will incur penalty interest. Rate Debtors will be able to apply for waiver of penalty interest in accordance with provisions within this Policy.



# Property Rate Debt Management Policy

Special Payment Arrangements should clear the outstanding debt within a 12 month period. If the offer of the arrangement does not clear the rate debt within a 12 month period, financial hardship provisions may need to be considered.

When a ratepayer enters into a special payment arrangement, the following documentation is issued to the ratepayer:

- Payment Arrangement Covering Letter;
  - This document is a summary of the Payment Arrangement Agreement documentation
- Payment Arrangement Agreement;
  - This document outlines:
    - The registered property owner(s) name(s);
    - The property address that the arrangement relates to;
    - The payment regularity (weekly, fortnightly or monthly);
    - The minimum amount of the regular payment;
    - Notification that any balance outstanding after the legislated full payment date will incur penalty interest at the prescribed rate;
    - The payment channels available to maintain the agreement;
    - That default of the agreement may result in the account being escalated to Council's Debt Collection Agency; and
    - The requirement for all property owner(s) to sign the agreement.
- Laminated payment Card
  - This card provides the rate debtor with the required details to be able to maintain their arrangement via the Bpay or Billpay payment channels.

Both the Payment Arrangement Covering letter and Agreement is created as outbound document within Council's electronic document management system and relevant notes are made against the electronic property record in Council's mainframe rating system.

**Legislation:** NIL

## **Policy Statement**

*Council will provide assistance to ratepayers who may be experiencing financial difficulties, by offering a range of special payment arrangements. Arrangements must be within declared payment dates or beyond that, may attract penalty interest depending upon circumstances.*

## **4.4. Calculation of Interest**

If payment was payable either in instalments or in a lump sum, and neither the first instalment or the lump sum were paid by the legislated payment dates, on and from the date on which each instalment was due, interest will calculate. Interest will be charged and calculated at the prescribed rate.

# Property Rate Debt Management Policy



## 4.4.1. Rate of Interest

Interest will be charged and calculated at the rate fixed from time to time by the Attorney-General under Section 2 of the Penalty Interest Act 1983.

**Legislation:** LGA – Section 172 – Council may charge interest on unpaid rates and charges  
Penalty Interest Rates Act 1983 – Section 2

### Policy Statement

*NIL*

## 4.5. Pension Rebate

The LGA provides that eligible pensions shall receive a rebate of rates and charges levied. Pensioners who hold eligible concession cards may be entitled to receive a rebate, at the amount prescribed by the Department of Health and Human Services.

The rebate applies only to the principal place of residence of the pension card holder, which is determined by the address appearing on the ratepayers' pension card.

The Health Care Card, certain Seniors cards and certain Department of Veteran Affairs (DVA) cards are not eligible cards. Application forms are available from Council's customer service office or website.

**Legislation:** LGA – Section 171 Sub Section 4 – Waiver  
Pension rebate is administered in accordance with Department of Health and Human Service Guidelines at the amount prescribed by the Minister

### Policy Statement

*NIL*

## 4.6. Late Payment and Escalation of Rates and Charges

Once Council's Revenue Services Team has been through the MSC documented in-house process of escalation (Reminder and Final Notices), Council may then recover any outstanding rates or charges via the Magistrates' Court.

This process entails the lodgement of outstanding accounts with the Debt Collection Agency appointed by Council, who then take the following steps to attempt to recover the outstanding debt:

- Letter of Demand
  - Sent to each property as notified by Council. Letter allows seven days for the ratepayer to make full payment or enter into a suitable payment arrangement with the Collection Agency. Prior to any further escalation by the Collection Agency, if a contact phone number is held for the Rate Debtor, the Collection Agency will attempt contact.

# Property Rate Debt Management Policy

- Field Call
  - If no response to the Letter of Demand or Phone Call (where possible), the Collection Agencies appointed agent will endeavour to make a Field Call to either the mail or rated property address to verify the Rate Debtor is aware of the debt.
- Complaint
  - If no response to the Letter of Demand or Field Call, the account will be further escalated and issued with a Complaint to the registered property owner(s).
  - A complaint is issued by the appropriate Court and once legal costs have been incurred, the complaint is then issued to the Process Server for service of documents on the registered owner(s).
  - Once the documents are served, the rate debtor(s) have rights under the court processes to resolve or further dispute the debt.
- Judgement
  - If account remains unresolved or there has been no action by the rate debtor(s), a Judgement Order will be issued
  - A letter is sent to the rate debtor(s) advising order has been registered and requesting payment. This debt will now appear on the rate debtor(s) credit rating.
- If the account remains unpaid after this point, Council can then further escalate via civil proceedings available through court processes.

All costs incurred from the Debt Collection Agency are levied back to the property rate account and are a secured charge against the property as are rate transactions. Even where a property changes ownership, costs are secured and recoverable.

Due to the costs associated with escalation of accounts via the Magistrates Court, rate accounts with balances below \$1,500 will not be escalated to the Debt Collection Agency. The debt will remain outstanding and continue to accrue interest until the balance outstanding reaches \$1,500 at which point the debt will be escalated.

For further information pertaining to the above escalation steps, please refer to Council's Revenue Services Team.

**Legislation:** LGA – Section 180 – Unpaid Rates and Charges  
LGA – Section 175 – Person acquiring rateable land

## **Policy Statement**

*NIL*

### **4.7. Deferral of Rates, Charges and Interest**

Ratepayers may have rates and charges, or part thereof, deferred in accordance with the LGA. Ratepayers will be encouraged to enter into and maintain special payment arrangements as a commitment to reduce obligated debt. Special Payment arrangements must be co-ordinated and implemented by the Revenue Services Team.

# Property Rate Debt Management Policy



If the maintenance of a special payment arrangement is not viable or suitable for the ratepayer(s) circumstances, a further process is available in accordance with the Financial Hardship provisions of this Policy.

**Legislation:** LGA – Section 170 – Deferred Payment

## Policy Statement

*The application for the deferral of rates, charges and interest will be managed in accordance with the Financial Hardship provisions within this Policy.*

## 4.8. Waiver of Rates, Charges, Interest and Costs

### 4.8.1. Rates and Charges

On occasion there may be instances where low value rates and charges may require waiver as a result of administrative errors. Where there are extenuating circumstances in accordance with the Delegation of Authority section of this Policy part waivers may be approved.

However, where there is no administrative error, any decision to waive rates and charges will be in accordance with the provisions of the Financial Hardship section of this Policy.

### 4.8.2. Interest and Debt Collection Costs

Ratepayers may have interest or debt collection costs waived where the reason for the late payment, although not related to financial hardship, is considered reasonable, subject to the following:

- Request for Waiver of Interest and/or Costs, must be in writing on the prescribed form (Attachment 3), which is in the form of a Statutory Declaration.

The following items will be considered when reviewing an application for the waiver of penalty interest and/or costs:

Acceptable Circumstances	Non Acceptable Circumstances
<ul style="list-style-type: none"> <li>• If ratepayer has maintained a special payment arrangement and is showing commitment to reduce debt and has not previously had waiver approved</li> <li>• If ratepayer has a proven payment history (not incurred interest and/or costs in the past 3 years)</li> </ul>	<ul style="list-style-type: none"> <li>• Mere oversight of due date for payment will not be accepted</li> <li>• Failure to contact Council prior to the due date to advise of financial difficulties</li> <li>• Previous special payment arrangements not being maintained</li> <li>• Previous history of late payments</li> </ul>

# Property Rate Debt Management Policy

<ul style="list-style-type: none"> <li>• At the completion of an agreed payment arrangement, waiver of penalty interest may be considered</li> <li>• Failure by Council to update a postal address after formal written notification</li> <li>• Incorrect contact details provided in a Notice of Acquisition</li> <li>• Compassionate Grounds (family illness or death)</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of communication from ratepayer to alter contact mail address</li> <li>• Field call resulted in direct conversation with ratepayer(s) or appropriate representative and no subsequent action from ratepayer</li> </ul>
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The application for waiver of interest and/or costs will be assessed and approved in accordance with the delegated authority section of this policy and will consider above circumstances and the following criteria:

- A 3 year (if owner has owned property for this period of time) good payment history (E.g.: No escalation in that time);
- No previous waivers of interest and/or costs;
- Special Circumstances (Health, Family, etc);
- Any verified verbal communications with ratepayer(s) and Council or Collection Agency (E.g.: via field call, etc); and
- No other money owing to Council.

Where an application for the waiver of interest and/or costs is approved, if future accounts are not paid in accordance with the required payment dates Council will have the right to re-instate any previously waived interest and/or costs. This right will be communicated to rate debtors at the time of the approval being communicated.

**Legislation:** LGA – Section 171 - Waiver  
LGA – Section 172 – Council may charge interest on unpaid rates and charges

## Policy Statement

*Council will waive interest and costs in consideration of the above acceptable circumstances where application has been made on the prescribed form.*

## 4.9. Application for Financial Hardship

### 4.9.1. Financial Hardship Principles

- Early identification of financial hardship is key and where there is no communication from the ratepayer(s) it can be very difficult to identify financial hardship
- Accessibility of information about Council hardship provisions, including material on Council websites and rate brochures
- Referral of financial hardship applications to qualified financial counsellors. If the ratepayer(s) are experiencing financial difficulties with their rate account, there are generally other accounts which they are having difficulty paying.

# Property Rate Debt Management Policy

## 4.9.2. Financial Hardship Application

The MSC recognises that financial hardship can arise with some ratepayers and will consider applications for financial assistance in the following circumstances:

- A confidential statement must be submitted by the ratepayer as evidence that the payment of the outstanding rates and charges would cause hardship to the ratepayer(s)
- The confidential statement must be on Council's prescribed form (Attachment 4) and must be signed as a Statutory Declaration of that person(s) circumstances
- Financial Hardship will only be considered for residential, owner occupied properties
- Financial Hardship will not be consider for:
  - Investment properties;
  - Commercial, Industrial and Extractive Industry properties; and
  - Vacant Land properties.
- If full disclosure is not made by the applicant or it is found that incorrect disclosures were deliberately made, Council reserves the right to collect any interest previously foregone or waived
- The privacy of applicant information is paramount and every application for assistance under this Policy will be treated confidentially and all assessments will be made on a case by case basis.

## 4.9.3. Financial Hardship Application Referral

When a completed Financial Hardship application is received by Council's RS&PC, it will be:

- Referred to Child and Family Services Financial Counsellor for review;
- The Financial Counsellor will contact the ratepayer and either discuss over the phone or meet face to face to ensure that the counsellor understands the ratepayers financial position sufficiently to advise Council of what the ratepayer could manage in the form of an arrangement
- The financial counsellor recommendation will be incorporated into a Confidential Council Report for discussion and resolution by Council.

## 4.9.4. Financial Hardship Application – Consideration by Council

Once a recommendation has been received by the Financial Counsellor, a Council report will be compiled which incorporates an overview of the property:

- Property number, address locality, municipal ward;
- The rate category the property is rated under;
- The current Capital Improved Value of the Property;
- Details of any previous financial hardship applications and associated deferrals; and
- The total rate arrears, current year rates and a grand total of both.

# Property Rate Debt Management Policy

The Council report will also include the payment arrangement recommendation from the financial counsellor, any additional considerations which should be taken into account and an overall recommendation which will include:

- What the recommended payment arrangement will cover if the arrangement was maintained for a period of 12 months;
- Waiver of any interest incurred on the rate account during the arrangement period, if the arrangement has been maintained for the 12 month period;
- Regular payments to continue beyond the 12 month period if the ratepayer wants Council to consider any further applications for financial hardship;
- If the ratepayers financial position does not improve in future years that they re-apply for financial hardship provisions;
- At the end of the 12 month arrangement period, with the consent of the property owner that the remaining outstanding rate debt be deferred as a charge against the property.

#### *4.9.5. Financial Hardship – Ratepayer obligations and deferral of rate debt*

It is the ratepayer's responsibility to advise Council of their financial difficulties as soon as they are aware that they will not be able to meet the rate debt.

If Council adopts the recommended resolution, the ratepayer will be advised of the outcome and the requirement to maintain agreed arrangement for a period of 12 months. At the end of the 12 month period, if the arrangement has been maintained the ratepayer will be issued with a form which they will be required to sign consenting to the remaining debt to be raised as a charge against the property.

The deferral of the remaining rate account will no longer show on the ratepayers annual rate notices and will not incur ongoing penalty interest. The ratepayer would only be required to pay the deferred rate charge if:

- The ratepayers circumstances changed, which would no longer result in the ratepayer suffering financial hardship as a result of repaying the debt;
- The ratepayer defaults in any agreement associated with the deferral; or
- The property is sold.

**Legislation:** LGA – Section 171A – Waiver by application of Financial Hardship

#### **Policy Statement**

*All applications for financial hardship must be made on the prescribed Financial Hardship Application form (Attachment 4).*

*Council will only defer rates and charges as a charge against the property up to 10% of the Capital Improved Value of the property. The deferral of rates and charges as a charge against the property in subsequent years must ensure that the total charge does not exceed 10% of the Capital Improved Value of the property.*

*Where the deferral of rates and charges is in excess of 10% of the Capital Improved Value, the ratepayer will be required to pay a portion of the rates and charges.*

# Property Rate Debt Management Policy



*Financial hardship will only be considered for a ratepayer's principal place of residence, unless there are extenuating circumstances.*

## 4.10. Sale of Property for Unpaid Rates and Charges

The LGA allows Council to sell property for the purposes of collecting outstanding rates and charges. To enable this process to occur:

- There must be rates and charges outstanding for a period of three (3) or more years
- Council must pass a resolution to sell the property for the recovery of outstanding rates and charges
- Council must obtain appropriate Court orders
- Council must not have an existing current arrangement for the payment of outstanding rates and charges
- Must obtain a written valuation of land by a valuer
- Serve a notice on anyone appearing from the Land Title Register as an interest in the land
- Give public notice of Council's intention to sell
- Notify interest/registered parties of auction details

Once all of the above requirements are achieved, Council's Debt Collection Agency will issue a pre Section 181 letter to the property owner advising that Council will proceed to sell the property if no action is taken.

Once Council's Revenue Services Team exhausts all other collection options, a report will be generated outlining details of the property and the steps taken to recover the outstanding debt. It will be the decision of Council to sell the property.

In accordance with provisions of the LGA, where the registered owner is not locatable any excess funds from sale can be retained by Council after certain conditions are met.

Where Council has sold a property in accordance with these provisions and the sale price has not covered the total outstanding debt against the property, Council will be required to write off the remaining balance.

**Legislation:** LGA – Section 181 – Sale of property for unpaid Rates and Charges

### **Policy Statement**

*Council will consider each recommendation of sale at a confidential session at any Ordinary Council meeting.*

*Excess funds from property sales will be placed in a trust fund and will be utilised to offset sales that have not covered the full cost of outstanding debt or be used to defray the write off of rate debt deemed as unrecoverable.*



# Property Rate Debt Management Policy

## 4.11. Delegation of Authority

Below are details of authority on each of the items covered within this policy

Type/Function	Authority Limit	Delegation
Special Payment Arrangements	Not Applicable	Revenue Services Team
Escalation of Accounts to Debt Collection Agency	All outstanding accounts	RS&PC or Senior Revenue Officer
Waiver of Interest* (1)	Up to \$25	Senior Revenue Officer and Revenue Officer
Waiver of interest and/or costs*	Up to \$1,000	RS&PC
Waiver of interest and/or costs*	>\$1,000 and <\$5,000	CFO
Waiver of interest and/or costs*	> \$5,000	General Manager Infrastructure
Waiver of Rates and Charges as a result of administrative errors	Up to \$1,000	CFO
Waiver of Rates and Charges	>\$1,000 will be in accordance with Financial Hardship provisions	Council via resolution (confidential session)
Deferral of Rates, Charges and Interest	In accordance with Financial Hardship provisions	Council via resolution (confidential session)
Application for Financial Hardship	All applications	Council via resolution (confidential session)
Appeal of Decision	All appeals	Council via resolution (confidential session)
Sale of property for unpaid rates and charges	All proposed sales	Council via resolution (confidential session)

\* Waiver of interest and/or costs will be considered in accordance with provisions within this policy

(1) These applications will not require the formal application form to be completed

## 4.12. Reporting

The following statistical information will be reported on within the quarterly financial reports presented to Council:

- Number of current payment arrangements;
- Value of interest calculated year to date within the current financial year;
- Number of properties receiving an eligible Pension Rebate;
- Type/Function, number and value of applications made under delegated authority;

# Property Rate Debt Management Policy

- Type/Function, number and value of approved applications made under delegated authority;
- Number and value of Financial Hardship applications received for current year;
- Number and value of Financial Hardship applications approved by Council for current year;
- Summary of outstanding rates for properties that have more than three years rates outstanding by Rate Category.
- The balance of the property sale trust fund and any transactional movements that have occurred within the current financial year

## 5. Right of Appeal

A delegated decision made by the RS&PC, CFO or the General Manager Infrastructure can be appealed by the applicant by making a formal request to Council for a review of the decision.

Such applications must be made by the applicant themselves (not a third party) and will be reviewed by Council in a closed session of Council. Right of Appeal applications must be on the prescribed application form (Attachment 5).

Decisions by Council are final and there are no further rights to appeal unless there is information which was overlooked in the first instance or circumstances have changed, at which point, a further application can be made by the applicant for Council to review previous decision, taking into account additional or changed information.

## 6. Related Legislation and Policies

- Local Government Act (Victoria) 1989
- Penalty Interest Rates Act 1983
- Municipal Association of Victoria – Hardship Policy Guidelines – November 2013

## 7. Council Plan Reference

Objectives:	1	Providing Good Governance and Leadership
Context:	1C	Our Business and Systems

## 8. Review

Council is committed to continuous improvement and will regularly review this Policy to ensure it continues to meet its objectives.

The Chief Executive Officer/Executive Team shall review compliance with this policy on an ongoing basis.

The Property Rate Debt Management Policy shall be reviewed every four (4) years.

## 12. OTHER REPORTS

### 12.1 Assembly of Councillors

File No.: 02/01/002

Section 76(AA) of the Local Government Act 1989 defines the following to be Assemblies of Councillors; an advisory committee of the Council that includes at least one Councillor; a planned or scheduled meeting of at least half the Councillors and one member of council staff which considers matters that are intended or likely to be:

- the subject of a decision of the Council; or
- subject to the exercise of a Council function, power or duty by a person or committee acting under Council delegation.

It should be noted, an assembly of Councillors does not include an Ordinary Council meeting, a special committee of the Council, meetings of the Council's audit committee, a club, association, peak body or political party.

Council must ensure that the written record of an assembly of Councillors is, as soon as practicable –

- a) reported to the next ordinary meeting of the Council; and
- b) incorporated in the minutes of that council meeting. (s. 80A(2))

Council also records each Assembly of Councillors on its website at [www.moorabool.vic.gov.au](http://www.moorabool.vic.gov.au)

A record of Assemblies of Councillors since the last Ordinary Meeting of Council is provided below for consideration:

- Assembly of Councillors – Wednesday 14 November 2018 – Review of the Community Grants Policy Changes
- Assembly of Councillors – Wednesday 14 November 2018 – Review of Statutory Meeting of Council Committees (with officers) and Appointment of Members of Reserves and Halls Committees of Management

#### **Recommendation:**

**That Council receives the record of Assemblies of Councillors as follows:**

- **Assembly of Councillors – Wednesday 14 November 2018 – Review of the Community Grants Policy Changes**
- **Assembly of Councillors – Wednesday 14 November 2018 – Review of Statutory Meeting of Council Committees (with officers) and Appointment of Members of Reserves and Halls Committees of Management**

# Attachment - Item 12.1a

# Assembly of Councillors

Date:	Wednesday 14 November, 2018
Venue:	Council Chambers, Ballan
Councillors:	Cr. Tatchell (Mayor) ✓ Cr. Bingham ✓ Cr. Dudzik 3.10 Cr. Edwards ✓ Cr. Keogh ✓ Cr. Sullivan ✓ Cr. Toohey 3.10
Officers:	Derek Madden; Phil Jeffrey; Satwinder Sandhu; Danny Colgan
Apologies:	

1. Assembly opened at: 3:05
2. Disclosure of Conflict of Interests -

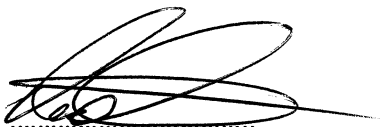
Under the Local Government Act (1989), the classification of the type of interest giving rise to a conflict is; a direct interest; or an indirect interest. The type of indirect interest specified under Section 78, 78A, 78B, 78C or 78D of the Local Government Act 1989 (amended) set out the requirements of a Councillor or member of a Special Committee to disclose any interest (pecuniary or non-pecuniary) or conflicts of interest that the Councillor or member of a Special Committee may have in a matter being or likely to be considered at a meeting of the Council or Committee.

3. Item Notes:

Review of the community Grants Policy Changes

Assembly closed at: 4:04

Signed:



**Derek Madden**  
Chief Executive Officer

Date: 14.11.18

# Attachment - Item 12.1b

# Assembly of Councillors

Date:	Wednesday 14 November, 2018
Venue:	Council Chambers, Ballan
Councillors:	Cr. Tatchell (Mayor) Cr. Bingham Cr. Dudzik Cr. Edwards Cr. Keogh Cr. Sullivan Cr. Toohey
Officers:	Derek Madden; Phil Jeffrey; Satwinder Sandhu; Danny Colgan
Apologies:	

1. Assembly opened at: ~~4:24~~ 4:24
2. Disclosure of Conflict of Interests -

Under the Local Government Act (1989), the classification of the type of interest giving rise to a conflict is; a direct interest; or an indirect interest. The type of indirect interest specified under Section 78, 78A, 78B, 78C or 78D of the Local Government Act 1989 (amended) set out the requirements of a Councillor or member of a Special Committee to disclose any interest (pecuniary or non-pecuniary) or conflicts of interest that the Councillor or member of a Special Committee may have in a matter being or likely to be considered at a meeting of the Council or Committee.

3. Item Notes:

**Review of Statutory Meeting of Council Committees (with officers) and Appointment of Members of Reserves and Halls Committees of Management**

Assembly closed at: ~~4:42~~ 4:56

Signed:



**Derek Madden**  
Chief Executive Officer

Date: 14.11.18

**12.2 Section 86 – Delegated Committees of Council – Reports**

Section 86 Delegated Committees are established to assist Council with executing specific functions or duties. By instrument of delegation, Council may delegate to the committees such functions and powers of the Council that it deems appropriate, utilising provisions of the Local Government Act 1989. The Council cannot delegate certain powers as specifically indicated in Section 86(4) of the Act.

Section 86 Delegated Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Section 86 – Delegated Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Nil.		



### 12.3 Advisory Committees of Council - Reports

Advisory Committees are established to assist Council with executing specific functions or duties.

Advisory Committees of Council currently have no delegated powers to act on behalf of Council or commit Council to any expenditure unless resolved explicitly by Council following recommendation from the Committee. Their function is purely advisory.

Advisory Committees are required to report to Council at intervals determined by the Council.

Councillors as representatives of the following Advisory Committees of Council present the reports of the Committee Meetings for Council consideration.

Committee	Meeting Date	Council Representative
Heritage Advisory Committee	Wednesday 17 October 2018	Cr. Keogh

**Recommendation:**

**That Council receives the report of the following Advisory Committee of Council:**

- **Heritage Advisory Committee, Wednesday 17 October 2018**

# Attachment - Item 12.3

## HERITAGE ADVISORY COMMITTEE

**61st MEETING**  
**James Young Room 1, Lerderberg Library,**  
**215 Main Street, Bacchus Marsh**  
**Wednesday 17 October 2018**  
**10.00am to 12.00pm**

### MINUTES

#### Attendees

##### Voting Members

Cr John Keogh (Chair) Moorabool Shire Council	Tim van der Poel Community Member
Jennifer Bantow National Trust Geelong & Region Branch	Bruce Carboon Bacchus Marsh & District Historical Society
Margaret Simpson Blacksmith Cottage & Forge Special Committee	Richard Biden Ballan Shire Historical Society

##### Deputy Members

Elizabeth Fairlie National Trust Geelong & Region Branch	Christine Bronchinetti Bacchus Marsh & District Historical Society
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##### Non-Voting Members

Mr David Goldsmith Australia Gliding Museum Inc.	Mr Rick Campey Ballan RSL
Mr Ron Geurts Bacchus Marsh Catholic Museum	Mr David Goldsmith Australia Gliding Museum Inc.
Andrew Goodsell Moorabool Shire Council	Joe Morgan-Payler Moorabool Shire Council
Amy Gloury Moorabool Shire Council	

##### Honorary Life Members

The Late Pat Liffman	June Huggins
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#### 1. Apologies

Cr Paul Tatchell  
Mr Mal Rogers  
Mr Andrew Lee

## **2. Adoption of previous Minutes**

<b>Motion:</b>	
That the minutes of the Heritage Advisory Committee Meeting of 22 August 2018, be accepted.	
<b>Moved:</b>	Tim van der Poel
<b>Seconded:</b>	Margaret Simpson

## **3. Business Arising**

### **3.1 Local Law Review**

There will be an update email to the committee before the next meeting

### **3.2 West Moorabool Heritage Study 2a**

Joe Morgan-Payler & Andrew Goodsell gave an overview of the Study which is currently being re drafted to be adopted into the updated Planning Scheme.

Sarah Kernohan (Strategic Planning Coordinator) will be invited to attend the next meeting to give a more extensive update.

### **3.3 Historic Signage**

As part of the Review of the Submitted list of Streets that could possibly be considered for Historical Street Signage a mock-up of the finished product will be drafted before the next meeting to show both All Capital and Title case and color options.

There were two issues raised, the inclusion of dates in the text and the fact that all these signs are referring only to men, an alternative of rewording the text to refer to the pioneering Family not just the men was tabled.

This project could align with the Economic Development Destination Management Plan and Andy Waugh (Coordinator Economic Development & Activation) will be invited to attend the next meeting to provide further insight into this.

## **4. General Business**

The Article for the Moorabool Matters Autumn 2019 edition will be submitted by Ron Geurts.

Amy Gloury to email through the approximate deadlines for submissions for the next 4 issues.

## **5. Reports from Committee Members / Information Sharing\***

Geelong and Region Branch National Trust Report  
**Submitted by Elizabeth Fairlie**

Blacksmith Cottage & Forge Special Committee  
**Submitted by Margaret Simpson**

Bruce Carboon provided general information from the Bacchus Marsh District Historical Society.

A book prepared by the Historical society titled, Honour to whom honour is due that is focussed around the solders from the district in WW1, will be launched on 10<sup>th</sup> Nov at 2pm in the James Young Meeting Room at the Library, orders can be made to the historical society (RRP \$50.00)

Richard Biden provided general information from the Ballan Shire Historical Society.

The Society held an open day for History week and prepared a display with a focus on the Remembrance Day Centenary, the display will be on show at the Ballan RSL from 4<sup>th</sup> Nov to 11 Nov.

**Note:** future agendas will clearly separate formal pre-submitted reports and information sharing (which will be minuted) and informal verbal reports or information sharing (which will not be included in the minutes) into separate agenda items.

**Next Meeting: 12 December 2018**

**Venue: James Young Room 1  
Lerderberg Library  
215 Main Street  
Bacchus Marsh**

MOORABOOL SHIRE HERITAGE ADVISORY COMMITTEE 61st MEETING  
James Young Room 1, Lerderderg Library  
Bacchus Marsh Wednesday 17 October 2018 10 – 12 noon

## **Geelong and Region Branch National Trust of Australia (Victoria) report**

### **HMVS Cerberus Half Moon Bay Blackrock Bayside City Council Branch submission to Heritage Victoria opposing filling the Cerberus with concrete**

*The Age* Wed 1<sup>st</sup> Aug 2018, quote from NT Vic CEO Simon Ambrose ... *a solution needed to be found that was reversible ... we are disappointed with the outcome.*

### **Former Geelong Post Office, proposed sale by CoGG**

#### **1. 25 June 2018 Submission from Geelong and Region Branch National Trust of Australia (Victoria)**

Re NOTICE OF INTENTION TO SELL LAND Geelong Advertiser Saturday 26 May 2018 & Geelong Independent Friday 1 June 2018

#### **2. 24 July 2018 Submission re Former Geelong Post Office conservation management plan**

Resolution carried at the Greater Geelong Council meeting, 22<sup>nd</sup> May 2018 Part 5, requested that the Former Geelong Post Office Conservation Management Plan dated 2 May 2018, be forwarded to the National Trust for comment, available to Council by 31<sup>st</sup> July 2018.

#### **3. Tuesday 21 August 2018 5pm, Former Geelong Post Office CoGG Submissions Review Panel,**

Council Chambers. Lex Chalmers, John Curtis, Jennifer Bantow appeared before 7 Councillors and 2 Officers.

### **Beach House part of Eastern Beach Bathing Complex and Reserve, proposed CoGG Lease**

National Trust classification File Number B6349 Level State

Victorian Heritage Register (VHR) Number H0929

City of Greater Geelong Heritage Overlay Numbers HO903

#### **1. 3<sup>rd</sup> September 2018 Re Notice of Intention to Grant a Lease to TBOS P/L for part of 95 Eastern Beach Road Geelong, 7 page submission**

- **Wednesday 19 September 2018**, Beach House Submissions Review Panel so that the Lease process would not be held up for 2 weeks.

#### **3. Thursday 20 September 2018 8.30am, Submissions Review Panel Council Chamber, 6 page**

Branch submission before 6 Councillors and 3 Council Officers

### **Town Hall future use - Consolidation of Council's Administrative Offices Project**

#### **• two Branch submissions**

**1. 28 August 2018, 12 page submission** to the CoGG Central Administrative Office Accommodation Project Advisory Committee, in response to the City of Greater Geelong Council resolution of 24 July 2018 that Council advertises the Proposed Recommendations of the Central Administrative Office Accommodation Project and invites written submissions from the public on the Proposed Recommendations and/or the Central Administrative Office Accommodation Project.

**2. Thursday 6 Sep 2018 5pm** 11 page submission to Civic Accommodation Submissions Review Panel

This submission stressed the importance of the double heritage values of architecture and continuous use, of the Joseph Reed Town Hall section, and that the Civic and Cultural Precinct should retain the use of the Town Hall as the seat of the elected local Council

### Osborne Park former Polo Ground, CoGG proposed Lease of Depot site Allotment 56C

- **3 September 2018 10 page Branch submission** in response to Notice of Intention to Grant a Lease to David Hamilton Property Group P/L for part of the land at Crown Allotment 56C (part of 51 Swinburne St Rippleside)

#### **Heritage Awards 2019 - Venue and date planning**

The venue has been confirmed with owners that the Awards next year can be held at **Provenance Wines**, 100 Lower Paper Mills Road Fyansford on Wednesday 8 May 2019 6pm to 7.30pm.

This restored building was the former Machine Room, Paper Store and Finish Room of the former Barwon Paper Mill.

The owners and tenants were recipients of a Heritage Award in May 2018 for:

- **Restoration of a Heritage Place.**
- **Creative Reuse of a Heritage Place.**
- 24 September lodged an objection to planning permit application to demolish 11 Villamanta St Geelong West
- 25 September 2018, City of Greater Geelong Council meeting, re conservation of memorials in Johnstone Park, 'Spirit of Anzac' sculpture and Peace Memorial, to be completed by 11 November Remembrance Day being the centenary of 1918 end of WW1
- 27 September 2018, CoGG Heritage Advisory Committee
- 28 September 2018 re sale of lone grave Gange burial ground /monument
- 28 September re demolition of Belcher's building, cnr Ryrie and Moorabool Streets
- 4 October UNESCO Geelong City of Design information workshop
- 9 and 10 October Deakin students, exhibition and Masterclass presentation
- 16 October tour of former Geelong Post Office (currently for sale)
- 17 October, CoGG Submissions Review Panel re lease of Osborne Park former Philip Russell polo ground (known as the Depot site)

**REPORT TO HAC**  
**17 OCTOBER 2018**  
**BLACKSMITH'S COTTAGE AND FORGE**

- The final inspection for the new porch at the cottage has been carried out and this project is substantially finished, apart from some painting work. This means that at last the grant can be acquitted after a long and complicated process to get a fairly simple construction erected.
- The Book Barn continues to operate successfully, constantly receiving large donations of books. We are hoping to be able to sell excess books which cannot be accommodated on the shelves via Bacchus Marsh Buy Swap and Sell Facebook page. Watch out for that.
- The Book Barn continues to attract new volunteers, which are all very welcome as the volunteer pool ages. Some of these volunteers are also interested in working at the cottage, which is also very welcome. We would love to hear from any others who would like to be involved with our heritage site.
- A new volunteer, Kevin Hansen, and one of our originals, Barbara Manly, have been busy working on some of our old harness, saddles etc., restoring the leather to something approaching its original state. There still remains much work to be done, as always on a historic site.
- We are having two open days at the cottage this month, resulting from a misunderstanding of the dates of the Flower and Garden Show. To keep faith with another community organization, volunteers have agreed to open the cottage on one extra day. The Book Barn will also extend its hours on Sunday 21<sup>st</sup> to be available if and when visitors from the Garden Show come along. It's so good to see we have a strong and willing volunteer community.
- We are also opening the cottage on 28<sup>th</sup> October, as advertised. All visitors welcome.
- A question re conducting raffles/sales etc for other organisations or individuals at the Shire-owned property has arisen. We are currently considering formulating a policy to give us guidelines when this issue arises.
- There is a "ghost" sign just discernible on the eastern wall of the forge. Local sign-writer Jamie Hine and committee member Ron Geurts have made out that the words probably read "Blacksmith and Wheelwright". However, they have been whitewashed over and cannot be retrieved or restored.
- Our AGM was very successful. We received positive comments on the speaker, local artist, Alison Durham. We were also pleased to welcome Tania Barrie from Moorabool Shire to the meeting.

Margaret Simpson



### 13. NOTICES OF MOTION

#### 13.1 Cr. Edwards: N.O.M. No. 275 - Preparation of Concept Plan – Indoor Stadium on Taverner St Land

##### Motion

That Council:

1. Develop a concept plan for a combined Indoor Sports and Aquatic Facility for the land owned by Council in Taverner Street, Maddingley. The Concept Plan should be consistent with the Indoor Recreation Feasibility Study and, as a minimum, should provide:
  - a. Basketball/Netball courts
  - b. 50m indoor pool
  - c. Hydrotherapy pool
  - d. Specialist Medical rooms
  - e. Community Meeting Space
  - f. Car Parking
2. Have the Concept Plan ready for the Federal election in 2019.

##### Preamble:

The Moorabool Indoor Recreation Facilities Feasibility Study identifies that a combined indoor sports and aquatic facility is the preferred option for development. Co-location of sport and aquatic facilities will enable casual use of the courts. The combined facility will be serviced by a reception and enable cost effective active management, programming during the day, and marketing. The ability to share meeting, toilets and change, and support facilities will also reduce the capital cost in a combined facility.

The study also identifies the preferred site is Taverner Street in Maddingley. Stating it is a large site, easily accessible by public transport and potential off-road trails and within close proximity to other sporting and recreation facilities.

We currently do not have a concept plan that would enable Council to advocate for significant funding for a combined indoor sports stadium. Recent funding announcements made by both Major Parties have proven that the minimum requirement to receive significant funding is a concept plan.

**13.2 Cr. Bingham: N.O.M. No. 276 - Streaming of Council Meetings****Motion**

That Council:

1. Prepares a report exploring options and any financial impact to Council to implement live streaming at the following Council Meetings:
  - a. Ordinary Meetings of Council
  - b. Special Meetings of Council

**Preamble**

Streaming of Council Meetings would make Council more accessible in today's busy environment. This will enable more people to see why decisions are being made which will lift the profile of Council.

**13.3 Cr. Bingham: N.O.M. No. 277 - Inclusion of (in camera) Agenda Items in the Public Agenda****Motion**

That Council:

Make public the title (In Camera) agenda items with details such as: Division, Director, Author/Position and reasoning for discussion (In Camera) i.e. contractual matter, financial hardship.

**Preamble**

Neighbouring Councils list (In Camera) agenda items in the public agenda. I believe that this provides better governance and allows the public to understand what items are being considered as confidential items.

**14. MAYOR'S REPORT**

**To be presented at the meeting by the Mayor.**

**Recommendation:**

**That the Mayor's report be received.**

**15. COUNCILLORS' REPORTS**

**To be presented at the meeting by Councillors.**

**Recommendation:**

**That the Councillors' reports be received.**

**16. URGENT BUSINESS**

**17. CLOSED SESSION OF THE MEETING TO THE PUBLIC****17.1 Confidential Report****Recommendation:**

That pursuant to the provisions of the Local Government Act 1989, the meeting now be closed to members of the public to enable the meeting to discuss matters, which the Council may, pursuant to the provisions of Section 89(2) of the Local Government Act 1989 (the Act) resolve to be considered in Closed Session, being a matter contemplated by Section 89(2) of the Act, as follows:

- (a) personnel matters;
- (b) the personal hardship of any resident or ratepayer;
- (c) industrial matters;
- (d) contractual matters;
- (e) proposed developments;
- (f) legal advice;
- (g) matters affecting the security of Council property;
- (h) any other matter which the Council or special committee considers would prejudice the Council or any person;
- (i) a resolution to close the meeting to members of the public.

Item 17.1 is a confidential item and therefore not included as part of this Agenda.



**18. MEETING CLOSURE**