

7.3.2 Proposed Community Local Law 2024 - further engagement and proposed adoption

Responsible GM: Debbie Tyson
Author: Owen Hardidge

Recommendation(s)

It is recommended that:

1. The outcomes of the first stage of public consultation in respect of Proposed Community Local Law 2024 (ver 1.0, conducted in March 2024) and the subsequent stage of consultation (ver 1.3, June/July 2024) be noted, and
2. Pursuant to Section 71 (1) of the *Local Government Act 2024*, Council resolves to make a Local Law to be known as Cardinia Shire Council Community Local Law 2024 (version 1.3.2 attached to this report), and for this Local Law to commence operation on 1 August 2024, and
3. Pursuant to section 10A(1) of the *Domestic Animals Act 1994*, Council resolves, from 1 August 2024 Council will not register or renew the registration of a cat over 3 months old unless:
 - a. the cat is desexed; or
 - b. the cat is exempt from being desexed under section 10B of the *Domestic Animals Act 1994*, and
4. Pursuant to Section 26(2) of the *Domestic Animals Act 1994*, Council resolves to make the following order:

ORDER UNDER SECTION 26(2) OF THE *DOMESTIC ANIMALS ACT 1994*

1. Commencement

This order commences on 1 August 2024 and remains in force until revoked.

2. Revocation

Upon the commencement of this order all previous orders made by Council under section 26 of the *Domestic Animals Act 1994* are revoked.

3. Dogs must be on leash

- (1) When any dog is in a public place in Council's municipal district, the person in apparent control of the dog must keep the dog restrained by means of a chain, cord or leash not greater than three metres in length and attached to the dog.
- (2) Sub-clause (1) does not apply to a dog being exercised in a designated off leash area in compliance with the conditions set out in clause 4.

4. Designated off leash areas

A dog may be exercised off a chain, cord or leash in a designated off leash area provided each of the following conditions are complied with:

- (a) at all times the person exercising the dog must remain in effective voice or hand control of the dog and within constant sight of the dog so as to be able to promptly place the dog on a chain, cord or leash if that becomes necessary;
- (b) the person exercising the dog must be 16 years of age or over;
- (c) any children under the age of 16 in the designated off leash area must be supervised at all times;
- (d) a person may be in control of no more than two dogs;
- (e) at all times the person exercising the dog must carry a chain, cord or leash not greater than three metres in length;
- (f) the dog must be on a chain, cord or leash when entering or exiting the designated off leash area;
- (g) a female dog must not be brought into the designated off leash area if the dog is on heat; and
- (h) the person exercising the dog must pick up and lawfully dispose of all excrement from the dog, including to use bins where provided by Council for that purpose.

5. Definitions

In this order -

Council means Cardinia Shire Council.

Designated off leash area means the part of each of the following reserves identified on maps published on the Council's website www.cardinia.vic.gov.au as being an off leash area and designated with off leash area signage at the reserve:

- (a) Don Jackson Reserve, far end of Ahern Road, Pakenham;
- (b) Toomuc Creek Linear Reserve, south of Princes Highway and east of Warwick Bayley Oval, Pakenham;
- (c) Alma Treloar Reserve, corner of Bailey and Pakenham Roads, Cockatoo;
- (d) Cochrane Park, Koo Wee Rup
- (e) Garfield Recreation Reserve, Fourteen Mile Road, Garfield;
- (f) Tantallon Boulevard Detention Basin Reserve, Beaconsfield;
- (g) Pepi's Land, Puffing Billy Walking Track, Kilvington Drive, Emerald;
- (h) Cockatoo Road Reserve, Pakenham;
- (i) Simon Drive Reserve, Pakenham;
- (j) Bob Burgess Reserve, Princes Highway, Beaconsfield;

- (k) Vantage Drive Reserve, Pakenham;
- (l) Ray Canobie Reserve, Duncan Drive, Pakenham;
- (m) Onyx Reserve, Onyx Crescent, Officer.

Private land means land in private ownership but does not include land owned or managed by Council, Crown land or any land owned or managed by a public authority.

Public place has the same meaning as in the *Summary Offences Act 1966* but does not include any public place on private land.

5. The CEO cause all necessary steps to be taken to bring the above resolutions into effect.

Attachments

1. Local Law Review 2024 Community Engagement Submission July 2024 [7.3.2.1 - 6 pages]
2. Cardinia Shire Community Local Law 2024 - Certificate pursuant to section 74(1) Local Government Act [7.3.2.2 - 1 page]
3. PROPOSED Cardinia Shire Council Community Local Law 2024 version 1 3 2 [7.3.2.3 - 72 pages]
4. Cardinia Shire Council Community Local Law 2024 Community Impact Statement ver [7.3.2.4 - 16 pages]
5. Table of changes July 2024 v 1 [7.3.2.5 - 12 pages]

Executive Summary

On 19 February 2024, the Council resolved to propose to make a Local Law, known as the Cardinia Shire Council Community Local Law 2024. The Proposed Local Law has been released for public consultation, and 12 submissions were received from members of the public during the first phase of consultation.

The majority of the Proposed Community Local Law 2024 did not receive any comment during the first phase of public consultation.

As a result of the consultation submissions, and further internal review, officers recommend alterations to the text of the proposed Local Law. As such, a further, short consultation period occurred between 18 June and 2 July 2024. 5 further submissions were received.

Having considered all submissions, Officers recommend that the proposed Local Law be made and commence on 1 August 2024. Ancilliary resolutions, to continue the current 'dog off leash' and 'mandatory cat desexing' should also be made at the same time

Background

Cardinia Shires Local Law 17 was introduced in 2015 and will expire in June 2025 (unless revoked sooner). On 19 February 2024, Council resolved to propose Community Local Law 2024, in accordance with the requirement of Section 73 of the Local Government Act. The proposed Community Local Law 2024 re-enacts the majority of the current Local Law 17 in its current form.

The proposed Community Local Law included changes that were summarised in a table of changes that was also exhibited with the text of the Proposed Local Law. This included a column specifically highlighting whether proposed changes had “minor”, “moderate” or “significant impact” on the community. A Community Impact Statement was also prepared in accordance with the Minister for Local Government Best Practice Guidelines. These documents are attached to this report for reference.

In accordance with the Community Engagement Policy, an extensive community engagement process was conducted between 4 March and 31 March 2024 primarily using the Creating Cardinia platform, and other communication methods. The Community was invited to provide feedback, and were provided with;

- 1 Survey Forms
- 2 Frequently asked questions
- 3 Table of proposed changes
- 4 Community Impact Statement
- 5 Current Local Law
- 6 Proposed Local Law (ver 1.0) (with proposed changes)

The public consultation program included targeted engagement of business cohorts that are particularly impacted by the proposed changes, including dedicated consultation streams for Victoria Police, Builders and Real Estate Agents which were developed and implemented in parallel to the community consultation.

Following this consultation program, Council further considered the Proposed Local Law at the Ordinary Council meeting of June 17 2024. At this meeting Council resolved to alter the proposed Local Law, and the altered proposed Local Law (ver 1.3) was further exhibited, and additional feedback sought.

An overview of the proposed changes to Community Local Law 2024 for community consultation included:

- i) Increase in the infringement penalties for building site amenity and asset protection offences.*
- ii) Stricter Asset protection permit requirements.*
- iii) Proposed reduction in the use of real estate pointer boards, and removal of requirement for agents to obtain permits*
- iv) Changes to requirements around dilapidated buildings*
- v) Introduction of offences relating to the use of waste services*
- vi) Offence to conduct a hoon event or congregate in close proximity to a hoon event.*
- vii) Increasing and indexing of penalty unit values*
- viii) Clauses proposed to be removed from the Local Law and remade as Domestic Animals Act orders*
- ix) Other miscellaneous amendments*

Summary of submissions and officer responses

A table including the text of all submissions is attached to this report. Submissions are divided into each engagement phase. Due to the nature and content of the submissions, personal

names have been removed from the submissions, though this does not impact the understanding of the submission.

The feedback from the *first phase of community engagement* was minimal, though consistent with similar Local Law-related engagement exercises. Of particular note, are:

- Table 1. 6 submissions from Real Estate Agents (4 supportive, 2 opposed) - this feedback resulted in the alteration proposed on 17 June 2024.
- Table 2. No submissions were received in respect of changes affecting builders (asset protection changes and building site infringement changes).
- Table 3. 1 Submission was received that was opposed to the introduction of an infringement offence for putting the wrong material in the wrong bin.
- Table 4. 1 submission was received expressing support for the abolition of gender-defined offences
- Table 5. 4 submissions which are noted, but from which officers do not recommend changes to the proposed Local Law (comments below).

First phase engagement submissions (March 2024)

| Theme | Summary of engagement comment | Response |
|--|---|--|
| <p>Real estate pointer boards</p> <p>The proposed Local Law sought to</p> <p>A) significantly reduce the use of pointer boards,</p> <p>B) reduce the period of time that they may be displayed, and</p> <p>C) remove the requirement for agents to obtain annual permits</p> | <p>2 submissions (both from agents in Emerald) submitted that the “60 minute prior/after” rule was too restrictive, and requested that this be eased to allow placement and removal on the same day as the event.</p> <p>3 submissions emphasised the need for consistent enforcement of the real estate signage rules.</p> | <p>As a result of the 2 submissions who believe that the “60 minute rule” was too restrictive, Council officers propose to relax the time requirement, to allow signs to be placed and remain from 8.30am to 5pm on the same day.</p> <p>We note that no submissions opposed any other aspects of the changes (for example, only allowing 2 boards per event, limited to closest intersection), and we infer that the proposed laws are broadly supported by agents.</p> <p>We note and acknowledge that several agents believe that more consistent enforcement activities are required to make such laws fair and effective, and Regulatory Services will develop an enforcement approach to support the introduction of the Local Law.</p> <p>This alteration was the subject of second phase engagement.</p> |
| <p>Availability of agapanthus for sale in municipality</p> | <p>2 submissions requested a Local Law response to the sale of agapanthus in the local area, noting that agapanthus</p> | <p>Officers have discussed this issue with the Environment and Heritage team. While acknowledging that agapanthus are freely available for purchase, we believe this matter is</p> |

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| | are identified as an invasive weed. | best suited to resident education in the first instance. We therefore do not recommend a specific local law control at this time. |
| Waste service clauses | 1 submission indicated that the resident was unhappy with the potential infringement offence of placing the wrong waste in the incorrect bins. | <p>The waste services team is primarily educational in their focus and recognise that the vast majority of service users wish to support an effective waste service. However, in some circumstances, Council officers observe residents <i>persistently and repeatedly</i> contaminating waste streams, and/or placing prohibited or dangerous items into bins.</p> <p>The infringement offence will be used in the most serious and persistent cases of service mis-use and is very unlikely to be applied in cases of accidental error.</p> <p>Infringement offences for mis-use of the waste service is common across metropolitan Melbourne.</p> |
| Prohibit feeding of wild birds | 1 submission indicated a request to feed uncaged (wild) birds. | <p>This issue has not previously been identified as an issue of particular concern in the municipality.</p> <p>We propose to follow up with this specific concern to evaluate the nature of the problem, and this proposal may be considered for inclusion in the future.</p> |
| Building site hours | During the consultation, we detected an error in the drafting of the clause. | <p>An amendment is proposed to align the operating hours to the EPA Civil Construction guidelines.</p> <p>This alteration was the subject of second phase of engagement</p> |

Second phase engagement submissions (June 18-July 2 2024)

| Theme | Summary of engagement comment | Response |
|--|---|---|
| <p>Real estate pointer boards</p> <p>The alteration sought to</p> <p>A) significantly reduce the use of pointer boards,</p> <p>B) allow boards to be displayed between 8.30am – 5pm, and</p> | <p>2 further submissions were received from Real Estate agents regarding the proposed ‘relaxation’ of time based limits.</p> <p>Both submissions requested that the time be extended further, to allow for earlier placement on weekends, and later placement on weekdays</p> | <p>Council officers acknowledge the issues raised by these two submissions. Council officers recommend that the hours in the proposed Local Law be made as circulated, however acknowledge that it will be appropriate to monitor the impact of the Local Law as it rolls out and potentially adjust if necessary. This is a pragmatic approach, which takes account of the variety of views in the industry (expressed formally and informally over a number of years) and reflects the different issues and practices of agents in different parts of the municipality.</p> |

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| C) remove the requirement for agents to obtain annual permits | | Both submissions highlighted that the consistency of enforcement by Council officers would be a major factor in the success of the law change. Council officers agree with this, and will develop an enforcement strategy to support the roll out of the law. |
| Complexity of Local Law documents | 1 submission highlighted that it is very difficult for members of the community to digest and understand the documents relating to the proposed Local Law | <p>Council officers acknowledge this submission, and believe this is likely a reason for relatively limited submissions.</p> <p>This is a perennial problem in respect of Local Law documents, in that the legal instrument and the supporting statutory explanations are technical and difficult to digest, especially in the case of multi-issue “omnibus” local laws, such as this one.</p> <p>In designing the engagement, we have attempted to make some issues easier to engage with, by providing plain language commentary, however we accept that there is room for improvement in this respect, and the educational approach of enforcement officers will continue to be very important.</p> |

Certification and review

Section 74(1) of the Local Government Act requires that a certificate must be obtained from a qualified person (legal practitioner) that confirms that the law complies with the Local Law requirements set out in the Act.

A certificate to this effect is tabled with this report.

The Local Law may be reviewed or amended at any time, by following the process in the Local Government Act. At a minimum, Council commits (in the Compliance and Enforcement Policy) to review Local Laws every 5 years.

Other related resolutions

As previously noted, the existing Local Law includes clauses that relate to domestic animals (cat desexing and dog-leashing requirements). With the adoption of this Local Law, these ‘laws’ will be remade as Orders under the Domestic Animals Act, rather than in the Local Law.

Resolutions 3 and 4 have the effect of re-anacting existing resolutions (or equivalent resolutions) of Council. Where changes are proposed (such as the change regarding cat registration from 6 months to 3 months) this was included in the engagement documents and Creating Cardinia profile.

Policy Implications

As set out above, the proposed Local Law supports the same objectives as those previously adopted by Council. Where changes are proposed to the Local Law, they are broadly consistent with previous policy decisions of the Council (such as off leash park policy and decisions relating to waste services etc).

Other policy changes have been proposed and disclosed through the statutory engagement process. Where the scope of the proposed Local Law has broadened, it does not result in an unexpected or extraordinary use of the law making power. In most cases, new requirements proposed in the Cardinia Shire Community Local Law 2024 have been modelled on clauses already operating in other municipalities.

Relevance to Council Plan

5.1 We practise responsible leadership

5.1.1 Build trust through meaningful community engagement and transparent decision-making.

Climate Emergency Consideration

There are no climate emergency considerations as part of the report

Consultation/Communication

The proposed Local Law has been drafted following:

- feedback from the community
- feedback from real estate agents
- the feedback of enforcing officers since Local Law 17 was adopted, and
- feedback from other relevant Council business units

The proposal has been subject to an extensive public consultation program, primarily using the Creating Cardinia platform, and other communication methods. Dedicated consultation streams for Builders and Real Estate Agents were developed and implemented in parallel to the community consultation.

Financial and Resource Implications

The development of the proposed Local Law, and the engagement activities that support it, are met within existing operational budget.

Conclusion

It is necessary for Council to remake the Local Law, and the proposed Local Law (version 1.3.2) broadly represents a continuation of the current Local Law, with proposed amendments to improve the effectiveness and efficiency of the Local Law.

After extensive, public consultation we recommend that the Proposed Community Local Law 2024 be made (as set out in Version 1.3.2) attached to this report.

Local Law Review 2024 Community Engagement Submissions

Engagement period March 2024

| Date Submitted | Theme/topic | Do you have any feedback on the proposed changes to Cardinia Shire's Local Law 2024? |
|---------------------------|---|---|
| Mar 05, 2024, 01:17 PM | Real estate pointer boards – consistency of enforcement | The real estate boards new rules are great as long as the council genuinely police the conditions. |
| Mar 05, 2024, 08:18 PM | Selling goods in public place | Thank you for not changing the selling goods clause. It will help our small business :). Also, thanks for the clear timeline. Good luck! |
| Mar 05, 2024, 16:38PM | Real estate pointer boards | Open Homes support the proposed restrictions on pointer boards |
| Mar 06, 2024, 11:10AM | Real estate pointer boards – “60 minute” rule | Respectfully, Council, we need to address the issue with real estate pointer boards. Saturdays are incredibly busy for agents, who are constantly running from one open home to another. Asking them to also allocate time for putting out pointer boards 60 minutes before each open is simply not feasible. Let's not exacerbate the challenges already faced by the industry. This decision directly impacts the livelihoods of agents, many of which are Cardinia Shire residents, and we urge you to reconsider to a model that is doable. Please do not make things even harder than they currently are for an industry just trying to make a living, like everyone else. |

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| <p>Mar 06, 2024, 12:15PM</p> | <p>Real estate pointer boards</p> | <p>We strongly support the restriction of pointer boards; you only need the Open for Inspection board at the front of the home on open day. Directional pointer boards were useful 20 years ago before everyone had smart phones/ GPS to find the home. These days, agents' "litter" the street with pointer boards every Saturday to promote their brand.</p> |
| <p>Mar 06, 2024, 12:20 PM</p> | <p>Real estate pointer boards – “60 minute” rule</p> | <p>Hello, thank you for your time on the phone today, Samantha. As discussed, the proposed changes to Section 23.7 in relation to real estate pointer boards being placed 60 minutes before an inspection and removed within 60 minutes of the conclusion of the inspection is impractical for us at Bell Real Estate Emerald. The traditional practice for us is to place the open for inspections boards first thing Saturday morning, and for them to be collected at the completion of the open for inspection as the agent leaves the property. If any are accidentally left, they would be collected by close of business on the Saturday. We therefore respectfully request that the local law allows for the boards to be placed Saturday Morning and to be removed/collected by Close of Business on Saturday (although would most likely be at the conclusion of the open for inspection). Please feel free to call to discuss on 5968 6222. Kind regards, Anna, Bell Real Estate Emerald</p> |
| <p>Mar 13, 2024, 10:21AM</p> | <p>Real estate pointer boards – consistency of enforcement</p> | <p>We believe this need to be better monitored, not locating them on roundabouts, intersections. Not having 2-3 pointer boards point into the same street entry (example) 2 x boards side by side pointing the same direction entering one street/main road or one board located on the right-hand side of the road and one on the left-hand side of the road. We have been doing the right thing, x3 boards leading to each property, yet on Saturday these are not being monitored by you, so agents are taking advantage of putting excessive number of boards leading to 1 house, we have seen over 10 boards to one house just on the weekend., especially in Officer and Officer South. Also, we get told no Big 6x8 boards on highways, yet when you drive to Drouin they are everywhere. Again, bigger companies getting away with it and small business like us do the right thing and in the end get disadvantaged as people see these boards which leads to more sales for them. Barry Plant have HUGE SOLD boards out the front of properties yet when we did it 3 years ago we were hit straight away by you, yet the bigger companies just keep getting away with it.</p> |

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| Mar 14, 2024, 07:56 PM | Proposed inclusion - feeding wild birds | Please make it illegal to feed uncaged (i.e. wild) birds like other municipalities. |
| Mar 14, 2024, 09:41 PM | Waste services clauses | Unhappy with the bin infringement We diligently try to separate the rubbish but feel placing a financial burden on homes around this when times are hard |
| Mar 22, 2024, 12:44 PM | Proposed inclusion - Weeds/agapanthus | Can we add a local law that bans the planting of agapanthus in country, rural area. When we first moved to Officer we were given a little booklet by our 3 councils. Weed Identification Guide. Agapanthus featured with the explanation that it invades bushland. It's certainly done that. We live in a zone labelled, 'Conservation' which gives residents a certain responsibility to maintain our surrounds. I've been dismayed how much agapanthus has invaded. Sweet pittosporum was firmly entrenched but agapanthus wasn't. |
| Mar 28, 2024, 11:20 AM | Proposed inclusion - Weeds/agapanthus | I would like a ban on the sale of certain local weeds, especially agapanthus. They are becoming a huge problem in our remnant bush areas. |
| April 1, 2024, 10:30PM | Clause 11, removal of gender-based offence regarding use of Council facilities. | The Victorian Pride Lobby is a community-based advocacy group that works towards equality, social justice and advancing human rights for the Victorian LGBTIQ+ community. We welcome the removal of the current clause 11.3 that relies on proof of gender to enter dressing rooms, showers, conveniences, or other gendered areas. This clause is unnecessary as other clauses adequately address anti-social behaviour, inconsistent with current approaches to such spaces, and potential discriminatory particularly against gender diverse people. |

Engagement period June/July 2024

| Date Submitted | Theme/topic | Do you have any feedback on the proposed changes to Cardinia Shire's Local Law 2024? |
|----------------|----------------------------|---|
| 18 June 2024 | Real estate pointer boards | <p>Thank you for the update. Can council consider a slightly earlier time, like 7.30am?</p> <p>Additionally, we have a further concern regarding the council's new regulations for pointer boards. While we and many other real estate companies comply with the current rules for real estate boards (no longer permitted on council land), some companies disregard them, gaining undue exposure. For instance, when I requested an impound, I was informed there were issues, and the board remained in a prime location on Beaconsfield-Emerald Road for about a month. This situation unfairly penalises those who follow the rules while others benefit from exclusive advertising. If the council is going to enforce these regulations regarding pointer boards, do they have the manpower to ensure compliance so it is fair for all agencies?</p> |
| 18 June 2024 | Real estate pointer boards | <p>Thank you for your email regarding the recent alteration to clause 23.7. We appreciate you keeping us informed.</p> <p>We are pleased to hear that the regulation has been amended to address the issue of agents placing boards out before open houses.</p> <p>However, we believe the current time restrictions for board placement and removal may be overly restrictive. In particular, the requirement to remove signs by 5pm poses a challenge for weekday open houses held after standard business hours i.e 5.00pm - 5.30pm.</p> <p>Due to our office opening at 9am, followed immediately by scheduled appointments, it would be difficult to place open signs in locations like Cockatoo, Tonimbuk, and Bunyip within the allotted 30-minute window. Placing board out can take up to 2hours normally commencing at between 5.30am – 6.30am</p> <p>We would propose a revision to the regulation that clarifies the signage guidelines as follows:</p> <p>Open house boards may only be placed on the same day as the advertised open house. Open house boards must be removed no later than 90 minutes after the conclusion of the advertised open house time. This would account for open houses that run beyond the scheduled duration.</p> |

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| | | <p>A significant concern in the Cardinia Shire is the presence of "ghost boards" - signage advertising real estate services without a corresponding open house. For example, driving along Grandvue Blvd and Timbertop Blvd on a Saturday reveals a multitude of these misleading signs. We would encourage Local Laws to consider addressing this issue as well.</p> <p>Thank you for your time and consideration. We look forward to your response.</p> |
| 20 June 2024 | Open Air Burning | <p>That open burn offs done in suburban areas shouldn't be allowed and need to be approved by council with checking up on the pieces that will be burnt. One of my neighbours were burning their old mattress and clothing for weeks, me and my family have felt very nauseous from the affects of the rotting smell having to close our windows all summer.. I felt sorry for the other surrounding homes also suffering. Just thought I'd see this as a opportunity to reach out to council here as I was uncomfortable reporting this person due to their unfriendly ulterior motives and behaviour. Thanks council</p> |
| 21 June 2024 | Accessibility of Local Law consultation documents | <p>Council needs to create a way for residents to easily be able to read and understand these complex documents. They are far too long for the average person to read, let alone have the time and to try understand it.</p> <p>Perhaps more Q/A style sessions should be held with council officers and councillors.</p> <p>Or documents that better summarise and explain exactly what they are.</p> |
| 27 June 2024 | Clause 11, removal of gender-based offence regarding use of Council facilities. | <p>The Victorian Pride Lobby is a community-based advocacy group that works towards equality, social justice and advancing human rights for the Victorian LGBTIQ+ community. In 2020, we launched the Rainbow Local Government campaign to recruit and support LGBTIQ+ candidates and allies to increase diversity and champion change on LGBTIQ+ issues in local government.</p> <p>We welcome the removal of the current clause 11.3 that relies on proof of gender to enter dressing rooms, showers, conveniences or other gendered areas. This clause is unnecessary as other clauses adequately address anti-social behaviour, inconsistent with current approaches to such spaces, and potentially discriminatory particularly against gender diverse people.</p> <p>We welcome any opportunity to work together to ensure that the needs of LGBTIQ+ people who live, work and recreate in Cardinia continue to be addressed in all the work that the Shire does.</p> |

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| | | <p>In this regard, we are due to meet with your Coordinator of Community Safety and Inclusion, Mark Carter, tomorrow to discuss the Council's LGBTIQA+ Action Group. It is our position that community members should be appointed to this Group, which currently is only comprised of Council officers.</p> <p>We also request that Council advise on whether it flew the rainbow flag on the International Day Against Homophobia, Biphobia, Intersex discrimination, and Transphobia ('IDAHOBIT') this year and, if it, if it will fly the rainbow flag on IDAHOBIT an annual basis.</p> |
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**CERTIFICATE PURSUANT TO SECTION 74(1) OF THE
LOCAL GOVERNMENT ACT 2020**

I, **Marcus Heath**, being a qualified person as defined in section 74(2) of the *Local Government Act 2020 (Act)*, hereby certify pursuant to section 74(1) of the Act that I am of the opinion that the proposed **Cardinia Shire Council Community Local Law 2024** version 1.3.2 is consistent with the local law requirements that are set out in section 72 of the Act.

Dated: 3 July 2024

A handwritten signature in blue ink, appearing to read 'Marcus Heath'.

Marcus Heath

Level 12, 469 La Trobe Street, Melbourne, Victoria 3000
An Australian Legal Practitioner within the meaning of The Legal Profession Uniform Law (Victoria)

Cardinia Shire Council Community Local Law 2024

Cardinia Shire Council Community Local Law 2024 was **made** by resolution of the Cardinia Shire Council on **[date]**.

This version is effective from **1st August 2024**.
This document is version 1.3.2

VER 1.3.2

VERSION HISTORY

| Version number | | Effective dates |
|----------------|---|--|
| 1.0.0 | Proposed Local Law - draft version | |
| 1.3 | Proposed Local Law – alterations following consultation | Alteration to pointer board times (Clause 23) Alteration to building site hours (Clause 79) Other inconsequential corrections (misc clauses) |
| 1.3.2 | Minor administrative amendments | |
| 2.0.0 | Adopted Local Law | Adopted by resolution of Cardinia Shire Council on [date]. |

VER 1.3.2

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Part 1 Introductions and definitions

1. Title

1. This Local Law may be referred to as the Cardinia Shire Council Community Local Law 2024.

2. Objectives

2. The principal objectives of this Local Law are to:
 - 2.1 provide for the peace order and good government of the Cardinia Shire Council; and
 - 2.2 promote a physical and social environment free from hazards to health, in which the residents of the *municipal district* can enjoy a quality of life that meets the general expectations of the community; and
 - 2.3 prevent and suppress nuisances which may adversely affect the enjoyment of life or the health, safety and welfare of persons; and
 - 2.4 prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the quality of life and the environment; and
 - 2.5 prohibit, regulate and control access to and behaviour in *municipal places*; and
 - 2.6 prohibit, regulate and control the use of *municipal recreation centres*, *municipal buildings*, and *municipal reserves*; and
 - 2.7 protect public assets vested in *Council* from damage, accelerated deterioration or abuse during the building process or at other times; and
 - 2.8 provide a physical environment which aims to minimise hazards to health and safety of persons attending building sites and those adjacent, opposite or passing building sites; and
 - 2.9 prohibit, regulate and control the presence of and disposal of *builders' refuse*, rubbish and soil on and from building sites within the *municipal district*, particularly litter and stormwater pollution to protect receiving waterways and bays; and
 - 2.10 define the standards to which persons engaged in *building work* should adhere; and
 - 2.11 educate and induce persons involved in *building work* to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community; and
 - 2.12 provide for the consistent application and enforcement of this Local Law.

3. The power to make this Local Law

3. This Local Law is made under section 71(1) of *the Act* and section 42 of the *Domestic Animals Act 1994*.

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4. Commencement

4. This Local Law comes into operation on 1 August 2024.

5. Revocation

5. Local Law 17 is hereby revoked.

6. Cessation

6. In accordance with section 84(1) of *the Act*, unless sooner revoked, this Local Law ceases to operate on 1 August 2034.

7. Application

7. This Local Law applies and operates throughout the whole of the *municipal district*.

8. Exemptions from this Local Law

8. Nothing in this Local Law prevents any member, officer or employee of:

8.1 an *emergency service*; or

8.2 a State or Commonwealth government department or agency; or

8.3 any military or civil-defence organisation; or

8.4 the *Council*; or

8.5 a contractor directly engaged by the *Council* to undertake works or to provide a service,

from performing any of the duties they are lawfully entitled or required to perform while engaging in those duties and any person acting accordingly is not guilty of any offence under this Local Law.

9. Incorporated documents, codes and policies

9.1 This Local Law is to be read in conjunction with any document incorporated in accordance with section 76 of *the Act*.

9.2 The following documents are incorporated into this Local Law, in accordance with section 76(1) of *the Act*.

9.2.1 Manual for Traffic Control at Stock Crossings as published from time to time by the Head, Transport for Victoria [VicRoads].

9.2.2 Any *Council guidelines* published by Council that are made from time to time by *Council* under clause 94 of this Local Law.

10. Definitions

10.1 In exercising its powers and performing its functions under this Local Law, Council

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and an **Authorised Officer** may have regard to any guidelines, policies, codes or standards Council has adopted for the purpose of this Local Law.

10.2 Unless the contrary intention appears in this Local Law, the following words are defined as follows:

'the Act' means the *Local Government Act 2020*.

'advertising sign' means any placard, board, sign, card or banner, whether portable or affixed or attached to any land or building, which:

- a) provides information about the occupier of the land or building, or a business or industry; or
- b) advertises goods, services, an event or a competition,

and includes a **real estate pointer board**.

'alcohol' means a beverage intended for human consumption with an alcoholic content greater than 0.5% by volume at a temperature of 20 degrees Celsius.

'allotment' means any land in separate ownership or occupation within the **municipal district**.

'animal' includes any mammal and bird.

'appointed agent' means the person authorised in writing by an owner of a building or land to make an application, appeal, referral or representation on their behalf.

'approved green waste receptacle' means a bin supplied by **Council** for the provision of a domestic green waste collection service provided by **Council**.

'approved recycling receptacle' means a bin supplied by **Council** for the provision of a domestic recycling collection service provided by **Council**.

'approved waste receptacle' means a bin supplied by **Council** for the provision of a domestic landfill waste collection service provided by **Council**.

'Asset Protection Bond' means a payment or guarantee made to **Council** for the purposes of securing public assets and infrastructure from the cost of damage during **building work**.

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'asset protection permit' means a permit issued by **Council** for the protection of public assets and infrastructure during building work, in accordance with Clause 70 of this Local Law.

'audible intruder alarm' means a device which is designed to be (or which has the effect when switched on of being) activated by an intruder to the property as to emit noise capable of being heard beyond the boundary of the property in which it is installed.

'Authorised Officer' means any person appointed by the **Council** to be an Authorised Officer under section 224 of the *Local Government Act 1989* and includes members of Victoria Police who are appointed under that section.

'builder' means a person who:

- a) carries out **building work**, or
- b) manages or arranges the carrying out of **building work**, or
- c) intends to carry out, or to manage or arrange the carrying out of, **building work**.

'builders' refuse' includes any solid or liquid domestic or commercial waste, debris or rubbish, and without limiting the generality of the above, includes waste material, waste substance or thing generated by or in connection with **building work**.

'building' includes any structure, whether temporary or permanent, or any part of such structure, and includes incomplete structures.

'building site work hours' means:

- (a) between 7:00 am and 6:00 pm on any weekday, or
- (b) between 7:00 am and 1:00 pm on a Saturday, or
- (c) between 9:00 am and 1:00 pm on a Sunday or public holiday.

'building work' means:

- (a) work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a **building** which requires a building permit under the *Building Act 1993*, and
- (b) landscaping or concreting on **private land**, and
- (c) new subdivision road construction.

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'bulk rubbish container' means a bin, skip or other container used for the deposit of waste, but excludes a wheeled mobile garbage bin used in connection with the Council's refuse collection service.

'camping area' means land which has been declared by the Council to be a camping area for the purposes of this Local Law.

'caravan' includes a mobile home.

'completion of the building work' means:

- a) in relation to **building work** that requires an occupancy permit to be issued (or its equivalent), the date the occupancy permit is issued; or
- b) in relation to **building work** that requires a certificate of final inspection to be conducted (or its equivalent), the date the final inspection is conducted; or
- c) in relation to **building work** that does not require an occupancy permit or a final inspection, the date the works being undertaken needs no further substantive work for it to be used or enjoyed for the purpose for which it is being constructed.

'Council' means Cardinia Shire Council.

'Council guidelines' means guidelines made by **Council** from time to time under clause 94 of this Local Law.

'Council land' means any land vested in or under the control of the **Council**, including reserves, watercourses, reservations and the like, but excludes a road;

'domestic animal business' has the same meaning as the *Domestic Animals Act 1994*.

'dwelling' means any building or portion of a building which is used, intended, adapted or designed for use for human habitation.

'e-cigarette' has the same meaning as in the *Tobacco Act 1987*.

Explanatory note

The *Tobacco Act 1987* defines an 'e-cigarette' to mean:

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- (a) a device (other than a device that is prescribed to be not an e-cigarette for the purposes of this Act) that is designed to generate or release an aerosol or vapour (whether or not containing nicotine) by electronic means for inhalation by its user in a manner that replicates, or produces an experience similar to, the inhalation of smoke from an ignited tobacco product; or
- (b) any other device prescribed by the regulations.

'emergency service' means

- a) Victoria Police,
- b) Fire Rescue Victoria,
- c) the Country Fire Authority,
- d) Ambulance Victoria,
- e) the State Emergency Service,
- f) any organization whose primary function is the provision of first aid response, and
- g) any successor to any named organisation above,

and includes all members of the above organisations when engaged in bona fide operational activities.

'environmental weed' has the same meaning as in the *Cardinia Planning Scheme* from time to time.

'graffiti' means inscriptions or drawings scribbled, scratched, sprayed or otherwise applied on a surface without authority.

'hoon event' means an event at which one or more vehicles are being driven in a manner involving the loss of traction, racing, time trials or at which undue noise or smoke is caused.

'impound' means the seizing or taking possession of any item and includes the holding of that item at any location until the item is returned, released or disposed of.

'Infringement notice' has the same meaning as in the *Infringements Act 2006*.

'large bird' means any pigeon, cockatoo or other bird of similar or larger size of any

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age but does not include poultry.

'livestock' includes a cow, horse, pig, donkey, alpaca, llama or an animal of any species used in connection with primary production or kept for recreational purposes other than a dog or cat.

'motor vehicle' has the same meaning as in the *Road Safety Act 1986*.

Explanatory note

The *Road Safety Act 1986* defines a 'motor vehicle' as meaning a vehicle that is used or intended to be used on a highway and that is built to be propelled by a motor that forms part of the vehicle but does not include-

- (a) a vehicle intended to be used on a railway or tramway; or
- (b) a motorised wheel-chair capable of a speed of not more than 10 kilometres per hour which is used solely for the conveyance of an injured or disabled person; or
- (c) a vehicle that is not a motor vehicle by virtue of a declaration under subsection (2)(b) [of section 3].

'movable dwelling' has the same meaning as in the *Residential Tenancies Act 1997*.

Explanatory note

The *Residential Tenancies Act 1997* defines a 'movable dwelling' as a dwelling that is designed to be moveable, but does not include a dwelling that cannot be situated and removed from a place within 24 hours.

'municipal building' means a *building*.

- a) that is owned, occupied or controlled by *Council*, or
- b) that is under the care or management of *Council*.

'municipal district' has the same meaning as in *the Act*.

Explanatory note

The Act defines 'municipal district' to mean the district under the local government of a Council.

'municipal place' means a *municipal building*, *municipal recreation centre*, municipal landfill and transfer Station or *municipal reserve*.

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'municipal recreation centre' means any *municipal building* containing or associated with a tennis court, pool, spa, sauna, public bathing facilities, and includes all land and outdoor areas associated with or accessible from the *municipal building*.

'municipal reserve' means any land within the *municipal district* that is owned, occupied or managed by the Council including any structure, fixture, fitting and garden on or at the land, but does not include a *municipal building* or *municipal recreation centre*.

'notice to comply' means a notice to comply issued in accordance with clause 87.

'noxious weed' has the same meaning as the *Catchment and Land Protection Act 1994*.

Explanatory note

The *Catchment and Land Protection Act 1994* defines 'noxious weed' to mean:

- a) a State prohibited weed,
- b) a regionally prohibited weed,
- c) a regionally controlled weed or
- d) a restricted weed.

A full list of noxious weed species can be obtained from Council, or from the Department of Energy, Environment and Climate Action.

'occupier' includes:

- a) a person who manages any land on behalf of the land's owner or occupier; and
- b) a person who is responsible for the care and control of any land; and
- c) a lessee or licensee of any land;

'Official warning' has the same meaning as in the *Infringements Act 2006*.

Explanatory note

The *Infringements Act 2006* defines an 'official warning' to mean a warning in respect of an infringement offence served in accordance with Part 2 of the *Infringements Act 2006*.

'owner' means:

- a) in relation to a *building*, the owner of land on which the *building* is situated, and
- b) in relation to a *motor vehicle*:
 - i. the registered owner of the *motor vehicle*; or

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- ii. a person who has possession of the *motor vehicle*, and
- c) in relation to *livestock*, means:
 - i. a person who is entitled to legal or equitable possession of *livestock* whether solely or jointly, and
 - ii. a person who has custody of *livestock* on behalf of a person referred to in paragraph (c)(i).

Explanatory note

For the meaning of 'owner' in relation to land see section 3(1) of the *Local Government Act 2020*, which means the person who is entitled to receive the rack-rent for the land or who, if the land were let at a rack-rent, would be entitled to receive the rent.

'parking area' has the same meaning as in the *Road Safety Road Rules 2017*.

'penalty units' has the same meaning as set out in section 110 of the *Sentencing Act 1991*.

Explanatory note

For the purpose of this Local Law, section 110 of the *Sentencing Act 1991* defines 'penalty units' to mean a number of dollars equal to the product obtained by multiplying the number of penalty units by the amount fixed from time to time by the Treasurer under section 5(3) of the *Monetary Units Act 2004*.

'permit' (except in connection with an *asset protection permit* issued in accordance with Clause 70) means a permit in writing issued in accordance with Part 8 of this Local Law.

'pest animal' has the same meaning as the *Catchment and Land Protection Act 1994*.

Explanatory note

The *Catchment and Land Protection Act 1994* defines pest animal to mean:

- a) a restricted pest animal, or
- b) an established pest animal.

A full list of pest animals can be obtained from the Council, or from the Department of Energy, Environment and Climate Action.

'Poultry House' or *'Pigeon Loft'* means any building or structure or part thereof for the housing or use of poultry, birds or pigeons (respectively) and any area of land

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adjacent to it, which is used as the pen, compound or yard for such poultry, birds or pigeons.

'private land' means any land which is not owned or occupied or under the control or management of a public body.

'property' means any land, **building** or **dwelling** in separate ownership or separate occupation within the **municipal district** and includes premises, crops, trees and other improvements.

'public land' means any land to which the public has reasonable access.

'public place' has the same meaning as in the *Summary Offences Act 1966*.

Explanatory note

The *Summary Offences Act 1966* defines public place as follows:

'public place' includes and applies to—

- a) any public highway road street bridge footway footpath court alley passage or thoroughfare notwithstanding that it may be formed on private property;
- b) any park garden reserve or other place of public recreation or resort;
- c) any railway station platform or carriage;
- d) any wharf pier or jetty;
- e) any passenger ship or boat plying for hire;
- f) any public vehicle plying for hire;
- g) any church or chapel open to the public or any other building where divine service is being publicly held;
- h) any state school or the land or premises in connexion therewith;
- i) any public hall theatre or room while members of the public are in attendance at, or are assembling for or departing from, a public entertainment or meeting therein;
- j) any market;
- k) any auction room or mart or place while a sale by auction is there proceeding;
- l) any licensed premises or authorised premises within the meaning of the *Liquor Control Reform Act 1998*;
- m) any race-course cricket ground football ground or other such place while members of the public are present or are permitted to have access thereto whether with or without payment for admission;
- n) any place of public resort;
- o) any open place to which the public whether upon or without payment for admittance have

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- or are permitted to have access; or
- p) any public place within the meaning of the words 'public place' whether by virtue of this Act or otherwise.

'real estate event' means:

- a) land that is open for inspection by prospective purchasers in the case of land for sale or prospective tenants in the case of land for lease; or
- b) a real estate auction being conducted on land that is for sale.

'real estate pointer board' means an **advertising sign** used for the purpose of promoting a **real estate event**.

'recreational vehicle' means any mini bike, trail bike, motor bike, motor scooter, go-cart or other vehicle propelled by a motor which is used for recreational purposes, but does not include:

- a) a vehicle whilst engaged in legitimate farming activities; or
- b) a motorised wheelchair or motorised mobility aid used by a person with impaired mobility; or
- c) a motor-assisted bicycle with a motor with less than 200 watts capacity.

'Recyclable goods' means any substances or articles declared by the Council or an Authorised Officer to be 'recyclable goods' for the purposes of this Local Law from time to time.

'Recreation centre attendant' means -

- a) any staff member of the Council; and
- b) any other person appointed in writing by the Council or an Authorised Officer; and
- c) any person employed by an organisation contracted by Council to manage a **municipal recreation centre**,

performing any duties or functions at or in connection with a **municipal recreation centre**.

'registered' in relation to any vehicle means that the vehicle is registered in accordance with the *Road Safety Act 1986*.

'road' has the same meaning as in section 3 of the *Local Government Act 1989*, and in this Local Law the phrase 'road (including a road reserve, footpath or nature strip)'

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is used interchangeably and is not intended to expand or vary the meaning of 'road'.

Explanatory note:

In section 3 of the *Local Government Act 1989* '**road**' is defined as follows:

'**road**' includes –

- a) a street; and
- b) a right of way; and
- c) any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*; and
- d) a passage; and
- e) a cul-de-sac; and
- f) a by-pass; and
- g) a bridge or ford; and
- h) a footpath, bicycle path or nature strip; and
- i) any culvert or kerbing or other land or works forming part of the road.'

'**sell**' includes -

- a) sell by means of any machine, electronic device or mechanical device; or
- b) barter or exchange; or
- c) offer or expose for sale; or
- d) keep or have in possession for sale; or
- e) agreeing to, directing, causing or attempting to do any of such acts or things.

'**service dog**' means an individually trained dog that does work or performs tasks for the benefit of a with disability.

'**shopping trolley**' means a vehicle used primarily for the carriage of goods by customers.

'**smoke**' in relation to a **tobacco product** or **e-cigarette** has the same meaning as in the *Tobacco Act 1987*.

Explanatory note

The *Tobacco Act 1987* defines smoke to mean:

- (a) smoke, hold or otherwise have control over an ignited or heated tobacco product; or
- (b) use an e-cigarette to generate or release an aerosol or vapour.

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'stormwater system' means a stormwater system which provides for the conveyance of stormwater run-off including kerb and channel, open channels, underground pipe systems and natural waterways.

'trade waste' means any waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.

'trade waste hopper' means a purpose built receptacle for the disposal of **trade waste** that is ordinarily emptied by mechanical means.

'tobacco product' has the same meaning as in the *Tobacco Act 1987*.

Explanatory note

The *Tobacco Act 1987* defines 'tobacco product' to mean tobacco, cigarette or cigar or any other product containing tobacco and which is designed for human consumption.

'toy vehicle' means a vehicle designed to be propelled by human power and includes a scooter, a skateboard, roller skates, roller blades and similar toys and includes vehicles propelled by a motor of less than 200 watts but does not include:

- a) a motorised wheelchair or motorised mobility aid used by a person of impaired mobility; or
- b) a pram or pusher when used for its intended purpose.

'traffic control item' means any sign, mark, structure or device displayed, placed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians, and includes a device, however operated, which uses words symbols or lights to control or regulate traffic.

unreasonable noise has the same meaning as in the *Environment Protection Act 2017*.

Explanatory note

The *Environment Protection Act 2017* defines 'unreasonable noise' to mean:

- (a) noise that is unreasonable having regard to the following-
 - (i) its volume, intensity or duration;
 - (ii) its character;
 - (iii) the time, place and other circumstances in which it is emitted;

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- | |
|--|
| <p>(iv) how often it is emitted;</p> <p>(v) any prescribed factors; and</p> <p>(b) noise that is prescribed to be unreasonable noise; and</p> <p>(c) does not include noise prescribed not to be unreasonable noise.</p> |
|--|

'unregistered' in relation to a *motor vehicle* means a *motor vehicle* required to be registered under the *Road Safety Act 1986* which is not registered.

'vehicle crossing' includes all land and works between a property and the carriageway of an adjoining *road*, used or designed to be used for access by vehicles.

'vehicle' includes any conveyance propelled or drawn by human, animal, mechanical, electrical or other power.

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Part 2 **Municipal places, municipal recreation centres and municipal reserves**

11. Behaviour in municipal places

11. A person must not do any of the following:

- 11.1 remain in a *municipal place* while under the influence of *alcohol* or any prohibited drug,
- 11.2 remain in a *municipal place* after having been asked to leave by an *Authorised Officer*,
- 11.3 sell *alcohol* in a *municipal place*, without the written consent of the Council,
- 11.4 create a nuisance in a *municipal place*,
- 11.5 interfere with another person's use and enjoyment of a *municipal place*,
- 11.6 act in a manner which endangers any other person in a *municipal place*,
- 11.7 use indecent, insulting, offensive or abusive language in a *municipal place*,
- 11.8 behave in an indecent, offensive, insulting or riotous manner in a *municipal place*,
- 11.9 destroy, damage, interfere with or deface a *municipal place* or anything located there, without the written consent of the Council,
- 11.10 remove any thing from a *municipal place*, without the written consent of Council,
- 11.11 act in a manner contrary to any restriction, prohibition or direction contained in the inscription on a sign in a *municipal place*,
- 11.12 deposit or discard any litter or used syringe in a *municipal place*, except in a receptacle provided for that purpose,,
- 11.13 sell any goods or services in a *municipal place*, without the written consent of the Council,
- 11.14 erect, affix or place any *advertising sign* in a *municipal place*, without the written consent of the Council,
- 11.15 erect, operate or cause to be erected or operated any amusement in a *municipal place*, without the written consent of the Council,
- 11.16 obstruct, hinder or interfere with any member of staff of the Council in the performance of their duties at a *municipal place*,
- 11.17 act contrary to any lawful direction of an *Authorised Officer* or member of staff of the Council given in a *municipal place*, including, without limitation, a direction to leave the *municipal place*, whether or not a fee for admission to the *municipal place* has been paid,
- 11.18 use or interfere with any lifesaving or emergency device located within a *municipal place*, unless using the device in an emergency or participating in instruction or maintenance approved by the Council,
- 11.19 make any wager for money or engage in any form of gambling in a *municipal place*,

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without the written consent of the Council,

- 11.20 act in a manner that is likely to interfere with the reasonable use and enjoyment of the *municipal place* by other persons.

Maximum penalty: 20 Penalty units

12. Access to municipal places

- 12.1 The *Council* may:

- 12.1.1 determine the hours when a *municipal place* will be open to the public,
12.1.2 restrict access to a *municipal place* or part of a *municipal place*,
12.1.3 authorise any person to occupy a *municipal place* or to restrict access to the *municipal place*,
12.1.4 close a *municipal place* or part of a *municipal place* to the public,
12.1.5 require a person to comply with conditions of entry for admission to or the use of a *municipal place* or part of a *municipal place*, and
12.1.6 require a person to pay a fee determined under clause 92 of this Local Law for admission to or the use of a *municipal place* or part of a *municipal place*.

- 12.2 The *Council* may establish, from time to time:

- 12.2.1 conditions applying to the hire or use of a *municipal place* or part of a *municipal place*, including to require the payment of fees or charges for admission determined under clause 92 of this Local Law; and
12.2.2 conditions applying to the hire or use of any property of the *Council* in connection with a *municipal place*, including to require the payment of fees or charges determined under clause 92 of this Local Law.

- 12.3 A person must not, without the consent of the Council:

- 12.3.1 enter a *municipal place* other than through an entrance provided for that purpose; or
12.3.2 enter or remain in a *municipal place* during hours when the *municipal place* is not open to the public; or
12.3.3 enter or remain in a *municipal place* contrary to restrictions or conditions determined under clause 12.1 of this Local Law; or
12.3.4 enter or remain in a *municipal place* without the applicable fee or charge having been paid.

Maximum penalty: 20 penalty units

13. Behaviour in municipal buildings

13. A person must not, without the written consent of the Council do any of the following:

- 13.1 organise, conduct or hold any function or event in a *municipal building*.

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- 13.2 bring any animal into, or allow any animal under his or her control to remain in, a *municipal building*, except for a *service dog* being used by a person with a disability,
- 13.3 bring any *vehicle* or *toy vehicle* into a *municipal building*,
- 13.4 *smoke* any *tobacco product* or *e-cigarette* inside or within 10 metres of any *municipal building*,
- 13.5 bring into a *municipal building* any substance, liquid or powder which may:
 - 13.5.1 be dangerous or injurious to health, or
 - 13.5.2 have the potential to foul, pollute or soil any part of the *municipal building*,
or
 - 13.5.3 cause discomfort to persons.

Maximum penalty: 20 penalty units

14. Municipal recreation centres

- 14. At a *municipal recreation centre*, a person must not do any of the following:
 - 14.1 enter or remain in a wading or learners' swimming pool unless that person is
 - 14.1.1 under the age of eight years, or
 - 14.1.2 an adult in charge of a child under the age of eight years;
 - 14.2 enter or remain in a swimming pool, spa, sauna or steam room while in an unsanitary condition;
 - 14.3 enter a swimming pool, spa, sauna or steam room without having first showered at the *municipal recreation centre*;
 - 14.4 perform any act likely to result in discharges from the body entering a swimming pool, spa, sauna or steam room;
 - 14.5 use any substance or preparation which may discolour, render turbid, or otherwise render unfit for use, any shower or swimming pool, spa, sauna or steam room;
 - 14.6 use soap other than in a shower;
 - 14.7 foul, pollute or wilfully soil any part of the *municipal recreation centre*;
 - 14.8 bring into or cause to be brought into or remain in any part of the *municipal recreation centre*:
 - 14.8.1 any motor tube or other insulated or inflated rubber or plastic article not designed for use in a pool, or
 - 14.8.2 any glass bottle, glass vessel or other thing containing glass;
 - 14.9 enter or remain in the *municipal recreation centre* unless appropriately clothed or (if the person is using a swimming pool, spa, sauna or steam room) in appropriate swimming attire.

Maximum penalty: 20 penalty units

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15. Activities prohibited in municipal reserves

15. A person in a *municipal reserve* must not do any of the following:
- 15.1 enter upon or remain on any area set aside as a playing ground during the course of the sporting match or gathering, unless they are a player or official or a competitor at the sporting match or gathering,
 - 15.2 destroy, damage, climb on, remove or interfere with any flora,
 - 15.3 destroy, damage, climb on, remove or interfere with any structure,
 - 15.4 kill, injure or interfere with any fauna,
 - 15.5 throw any stones or missiles,
 - 15.6 spit upon or otherwise foul any path or structure,
 - 15.7 use any children's playground equipment other than for the purpose for which it was designed,
 - 15.8 swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain,
 - 15.9 throw, 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,
 - 15.10 jump or dive from any bridge or other structure into any wetland, lake, pond or fountain in a manner that endangers any person, including the person diving or jumping,
 - 15.11 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:
 - 15.11.1 dangerous to any person or property; or
 - 15.11.2 likely to interfere with the reasonable use and enjoyment of the *municipal reserve* by any other person,
 - 15.12 walk on or damage any plot, bed, border, closed track, replanting area or other area set aside for plants,
 - 15.13 post bills or an *advertising sign* on any
 - 15.13.1 fence, gate, wall, seat, or other structure, or
 - 15.13.2 vegetationwithout the written consent of the Council,
 - 15.14 undertake any fishing activity without being the holder of a current Recreational Fishing Licence,
 - 15.15 drive any vehicle in a manner that is:
 - 15.15.1 dangerous to any other person in the *municipal reserve*, or
 - 15.15.2 likely to interfere with the reasonable use and enjoyment of the *municipal reserve* by any other person;
 - 15.16 park any vehicle in contravention of any parking restrictions that apply in that

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municipal reserve.

15.17 park or drive a vehicle other than in an area set aside for that purpose,

15.18 park or drive a vehicle contrary to a direction on a sign in that *Municipal reserve.*

Maximum penalty: 20 penalty units

16. Activities which may be permitted in *municipal reserves*

16. In a *municipal reserve*, a person must not undertake any activity described in clauses 16.1–16.7, without a *permit*:

16.1 ride or drive a *vehicle* or horse except for -

16.1.1 parking a *vehicle* in a parking area established for that purpose, or

16.1.2 wheeling a bicycle, pram, baby or child carriage, wheelchair, mobility aid, or children's toy along a footpath, or

16.1.3 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

16.1.4 on a road or bicycle path in accordance with any applicable Acts or regulations,

16.2 light a fire or allow any fire to remain alight except in a barbecue provided by the Council, or a commercially manufactured barbecue assembled and operated according to manufacturer specifications,

16.3 pitch, erect or occupy any camp, tent, *caravan, mobile dwelling* or temporary structure,

16.4 hold a circus, carnival, festival, fete or other event likely to be attended by members of the public,

16.5 operate any device that has a predominant purpose of amplifying voice, music or noise,

16.6 conduct activities connected with a fitness, exercise or personal training business, group or organisation,

16.7 otherwise engage in any activity which may interfere with the reasonable enjoyment of the *municipal reserve* by any member of the public.

Maximum penalty: 20 penalty units

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Part 3 Behaviour on roads and public places

17. Toy vehicles

17. A person must not:

- 17.1 use or leave a **toy vehicle** on a **road** (including a road reserve, footpath or nature strip), or **public place**,
 - 17.1.1 in a manner which interferes with the passage of, causes a nuisance to or endangers any person on the **road** (including a road reserve, footpath or nature strip), or **public place**, or
 - 17.1.2 in an area determined by Council where the use of **toy vehicles** is prohibited, or
- 17.2 allow another person under his or her care and control to use or leave a **toy vehicle** on a **road** (including a road reserve, footpath or nature strip), or on **public place** contrary to Clause 17.1.

Maximum penalty: 20 penalty units

Explanatory note:

Toy vehicle is defined in clause 10.2 of this Local Law.

18. Shopping trolleys

- 18.1 A person must not leave a **shopping trolley**:
 - 18.1.1 on a **road** (including a road reserve, footpath or nature strip), or
 - 18.1.2 in a **public place**, or
 - 18.1.3 in a car park vested in the Councilexcept in an area designated for the leaving of **shopping trolleys**.

Maximum penalty: 20 penalty units
- 18.2 An **Authorised Officer** may impound any **shopping trolley** left contrary to clause 18.1.
- 18.3 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.

Maximum penalty: 20 penalty units
- 18.4 For the purpose of clause 18.3, **locking mechanism** means:
 - 18.4.1 a coin-operated lock, or
 - 18.4.2 any device designed to prevent the theft or removal of the **shopping trolley** from the vicinity of the business that provides the **shopping trolley**.
- 18.5 Clause 18.3 does not apply when a retailer makes available for use, or allows to be used, 25 **shopping trolleys** or less.
- 18.6 A retailer may apply in writing to Council for an exemption from the application of

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clause 18.3.

18.7 The Council may temporarily or permanently exempt any retailer from the application of clause 18.3.

18.8 A retailer who provides a *shopping trolley* for use must, within 24 hours of being notified by an *Authorised Officer* of the location of a *shopping trolley* left contrary to clause 18.1, collect the *shopping trolley*

Maximum penalty: 20 penalty units

19. Charitable collections

19. A person must not undertake a charitable collection on a *road* (including a road reserve, footpath or nature strip) without a *permit*.

Maximum penalty: 20 penalty units

20. Open air performances and busking

20. A person must not undertake any open air performance or busking activities on a *road* (including a road reserve, footpath or nature strip) without a *permit*.

Maximum penalty: 20 penalty units

21. Hoon Events

21.1 A person must not participate in, encourage, or attend a *hoon event* without a lawful excuse.

21.2 The driver of a *motor vehicle* must not stop or park in close proximity to a *hoon event* without a lawful excuse.

Maximum Penalty: 20 penalty units

22. Consumption or possession of alcohol

22.1 A person must not consume any *alcohol* or have in their possession any *alcohol* in an open container in any *public place*.

Maximum penalty: 20 penalty units

22.2 For the purpose of clause 22.1, words or descriptions on any container or bottle are *prima facie* proof of the content of the container or bottle, unless the contrary is proven.

22.3 Clause 22.1 does not apply to the consumption or possession of *alcohol*.

22.3.1 at a function or event that is conducted in accordance with a *permit* issued under this Local Law; or

22.3.2 at a place where the consumption or possession of *alcohol* is permitted under the *Liquor Control Reform Act 1998*.

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23. Signs, goods and furniture

23.1 A person must not:

- 23.1.1 display or allow to be displayed any goods; or
- 23.1.2 place or allow to be placed an *advertising sign*, or
- 23.1.3 place or allow to be placed a seat, umbrella, table, chair or other furniture;
or
- 23.1.4 post any placard, bill poster, sticker or other document,
on a *road* (including a road reserve, footpath or nature strip) without a *permit*.

Maximum penalty: 20 penalty units

23.2 A person must not commission another person to commit a breach of clause 23.1.

Maximum penalty: 20 penalty units

23.3 If an *advertising sign* is placed in breach of clause 23.1:

- 23.3.1 the person who is knowingly concerned in the operation of the business, event or activity to which the *advertising sign* relates; and
- 23.3.2 the person who has the management and control of premises, property, business, event or activity to which the *advertising sign* relates; and
- 23.3.3 the person who is a promoter of the premises, property, business, event or activity to which the *advertising sign* relates; and
- 23.3.4 the person who is responsible for the placement, siting or distribution of the *advertising sign* including without limitation the person who engages another whether as an employee or agent to place, site or distribute the *advertising sign*,

are each guilty of an offence against this Local Law whether or not the person who placed the *advertising sign* is identified or prosecuted.

Maximum penalty: 20 penalty units

23.4 Nothing in clause 23.3 shall affect the liability under clause 23.1 of any person who actually places any such *advertising sign* or posts any such placard, bill, poster, sticker or other document.

23.5 A person who has placed, allowed to be placed, displayed or allowed to be displayed

- 23.5.1 goods; or
- 23.5.2 an *advertising sign*, or
- 23.5.3 a seat, umbrella, table, chair or other furniture -
on a *road* (including a road reserve, footpath or nature strip) (whether or not in accordance with a *permit*), must move or remove it or them if directed to do so by:

- 23.5.4 an *Authorised Officer*, or
- 23.5.5 a member of an *emergency service*.

Maximum penalty: 20 penalty units

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- 23.6 an Authorised Officer may *impound* any:
- 23.6.1 goods; or
 - 23.6.2 *advertising sign*, or
 - 23.6.3 seat, umbrella, table, chair or other furniture-
placed or left in contravention of this Local Law or a condition of a *permit* issued
under this Local Law.
- 23.7 Clause 23.1 does not apply to the following *real estate pointer boards* placed on a
road between 8.30am and 5pm on the same day as the *real estate event*.
- 23.7.1 a *real estate pointer board* placed on the nature strip immediately outside
the property that is the subject of the *real estate event*, or
 - 23.7.2 a *real estate pointer board* placed on the nature strip at the nearest
intersection to the property that is the subject of the *real estate event*.

Explanatory note

All other real estate pointer boards require a permit under clause 23.1.

24. Bunting

24. An owner or occupier of land must not allow flags, signs or bunting on that land (or
attached to a structure on that land) to overhang a *road* (including a road reserve,
footpath or nature strip), at a height of less than four metres from the surface of the
road.

Maximum penalty: 20 penalty units

25. Persons selling goods

- 25.1 A person must not *sell* or trade from any car, caravan, trailer or any other *vehicle* on:
- 25.1.1 a *road* (including a road reserve, footpath or nature strip); or
 - 25.1.2 a *public place*, or
 - 25.1.3 any property adjacent to a *road* or *public place*,
without a *permit*.

Maximum penalty: 20 penalty units

- 25.2 The Council may exempt -
- 25.2.1 a person;
 - 25.2.2 a class of persons; or
 - 25.2.3 a body corporate-
from the application of clause 25.1.

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26. Aerosol spray paint containers

26. A person who:

- 26.1 offers an aerosol spray paint container for sale; or
- 26.2 owns, operates or manages a business from premises on which an aerosol spray paint container is offered for sale, must not allow any aerosol spray container to be stored or displayed unless the aerosol spray paint container is in a locked display cabinet which is not accessible to the public without the assistance of a person employed by the business.

Maximum penalty: 20 penalty units

27. Clothing recycle bins

27.1 A person must not place a clothing recycling bin on any land without a *permit*.

Maximum penalty: 20 penalty units

27.2 An Authorised Officer may *impound* a clothing recycling bin which is placed on land contrary to clause 27.1.

27.3 A person must not:

- 27.3.1 interfere with a clothing recycling bin; or
 - 27.3.2 deposit goods near or around a clothing recycling bin; or
 - 27.3.3 remove the contents of a clothing recycling bin;
- unless the person is an employee, agent or contractor of the person who placed the bin.

Maximum penalty: 20 penalty units

28. Repair and display of vehicles

28.1 A person must not paint, service, maintain, repair or dismantle a *motor vehicle* on a *road* (including a road reserve, footpath or nature strip), except to enable the *motor vehicle* to be removed.

Maximum penalty: 20 penalty units

28.2 A person must not display a *motor vehicle* for sale on a *road* (including a road reserve, footpath or nature strip), without a *permit*.

Maximum penalty: 20 penalty units

29. Abandoned vehicles

29. A person must not leave a *motor vehicle* that

- 29.1 is *unregistered*, or
- 29.2 is *registered* and has been left standing for at least seven consecutive days and

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has, in the opinion of an *Authorised Officer* been abandoned; or

29.3 is derelict to such an extent as to be unable to move under its own power and is in disrepair,

standing on or in a **road** (including a road reserve, footpath or nature strip), parking area, or any land vested in Council.

Maximum penalty: 20 penalty units

Explanatory note

Schedule 11 of the *Local Government Act 1989* also allows Council to:

- a) move or impound any unregistered vehicle or vehicle considered by it to be abandoned (and anything in, on or attached to, the vehicle);
- b) keep the vehicle in the place to which it has been moved or any other place;
- c) return the vehicle to its owner on payment of a fee; and
- d) sell, destroy or give away the vehicle (and anything in, on or attached to, the vehicle) if the owner of the vehicle has not paid the fee within 14 days of the Council impounding the vehicle.

30. Heavy or long vehicles

30.1 An owner or occupier of land must not:

30.1.1 keep; or

30.1.2 allow to be kept

a **heavy vehicle** or a **long vehicle** on any land under 4000m², without a **permit** issued under this Local Law, or a permit issued under the *Planning and Environment Act 1987*.

Maximum penalty: 20 penalty units

30.2 In clause 30.1, **heavy vehicle** and **long vehicle** have the same meaning as in the *Road Safety Road Rules 2017*.

Explanatory note:

At the time this Local Law was made, the *Road Safety Road Rules 2017* defines:

- a) **Heavy vehicle** to mean a vehicle with a GCM of 14.5 tonnes or more (regulation 200); and
- b) **Long vehicle** to mean a vehicle that, together with any load or projection, is 7.5 metres long, or longer (regulation 127).

Part 4 Waste disposal

31. Domestic landfill waste collection, recycling waste collection and green waste

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collection

31.1 The owner or *occupier* of *private land* to which Council provides a domestic landfill waste collection service must comply with each of the following:

- 31.1.1 use an *approved waste receptacle*,
- 31.1.2 only place permitted items in the *approved waste receptacle* in accordance with *Council guidelines*,
- 31.1.3 ensure the lid of the *approved waste receptacle* is closed after refuse is placed in the receptacle,
- 31.1.4 keep the *approved waste receptacle* in a clean, and sanitary condition,
- 31.1.5 ensure the *approved waste receptacle* is kept on the *private land* other than when placed out for collection,
- 31.1.6 ensure that the *approved waste receptacle* is placed out for collection not more than 24 hours prior to the scheduled waste collection and is returned to the *private land* not more than 24 hours after collection,
- 31.1.7 ensure the *approved waste receptacle* is placed on the adjacent footpath or nature strip in accordance with *Council guidelines* unless Council or an *Authorised Officer* directs that the *approved waste receptacle* be placed in another position, and
- 31.1.8 remove any refuse which has spilled from an *approved waste receptacle* onto any *Council land* or *road* (including a road reserve, footpath or nature strip).

Maximum penalty: 20 penalty units

31.2 The owner or *occupier* of *private land* to which Council provides a domestic recycling collection service must comply with each of the following:

- 31.2.1 use an *approved recycling receptacle*,
- 31.2.2 only place permitted items in the *approved recycling receptacle* in accordance with *Council guidelines*,
- 31.2.3 ensure the lid of the *approved recycling receptacle* is closed after recyclable materials are placed in the receptacle,
- 31.2.4 keep the *approved recycling receptacle* in a clean, and sanitary condition,
- 31.2.5 ensure the *approved recycling receptacle* is kept on the *private land* other than when placed out for collection,
- 31.2.6 ensure that the *approved recycling receptacle* is placed out for collection not more than 24 hours prior to the scheduled recycling collection and is returned to the *private land* not more than 24 hours after collection,
- 31.2.7 ensure the *approved recycling receptacle* is placed on the adjacent footpath or nature strip in accordance with *Council guidelines* unless Council or an *Authorised Officer* directs that the *approved recycling receptacle* be placed in another position, and

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- 31.2.8 remove any material which has spilled from an *approved recycling receptacle* onto any *Council land* or *road* (including a road reserve, footpath or nature strip).

Maximum penalty: 20 penalty units

- 31.3 The owner or *occupier* of *private land* to which Council provides a domestic green waste collection service must comply with each of the following:

- 31.3.1 use an *approved green waste receptacle*,
- 31.3.2 only place permitted items in the *approved green waste receptacle* in accordance with *Council guidelines*,
- 31.3.3 ensure the lid of the *approved green waste receptacle* is closed after green waste is placed in the receptacle,
- 31.3.4 keep the *approved green waste receptacle* in a clean, and sanitary condition,
- 31.3.5 ensure the *approved green waste receptacle* is kept on the *private land* other than when placed out for collection,
- 31.3.6 ensure that the *approved green waste receptacle* is placed out for collection not more than 24 hours prior to the scheduled waste collection and is returned to the *private land* not more than 24 hours after collection,
- 31.3.7 ensure the *approved green waste receptacle* is placed on the adjacent footpath or nature strip in accordance with *Council guidelines* unless Council or an *Authorised Officer* directs that the *approved green waste receptacle* be placed in another position, and
- 31.3.8 remove any waste which has spilled from an *approved green waste receptacle* onto any *Council land* or *road* (including a road reserve, footpath or nature strip).

Maximum penalty: 20 penalty units

- 31.4 A person must not place any waste or other material in an *approved waste receptacle*, an *approved recycling receptacle*, or an *approved green waste receptacle* that prevents the lid of the receptacle being closed.

Maximum penalty: 20 penalty units

- 31.5 A person must not place any *approved waste receptacle*, *approved recycling receptacle*, *approved green waste receptacle*, or hard rubbish in a location that:
- 31.5.1 obstructs the free use of a *road* (including road reserve, footpath or nature strip) by *motor vehicles*, or
- 31.5.2 obstructs the free use of a footpath by pedestrians.

Maximum penalty: 20 penalty units

- 31.6 An *occupier* of any land must ensure that any area where an *approved waste receptacle*, *approved recycling receptacle*, or *approved green waste receptacle* is

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kept is maintained in a clean and sanitary condition.

Maximum penalty: 20 penalty units

31.7 An occupier of any land must not use or permit to be used an *approved waste receptacle*, *approved recycling receptacle*, or *approved green waste receptacle* for any purpose other than the deposit of relevant waste in accordance with this Local Law.

Maximum penalty: 20 penalty units

31.8 A person must not damage or destroy an *approved waste receptacle*, *approved recycling receptacle*, or *approved green waste receptacle*.

Maximum penalty: 20 penalty units

31.9 An occupier of *private land* must comply with any requirements in *Council guidelines* for the placement of an *approved waste receptacle*, *approved recycling receptacle*, or *approved green waste receptacle*.

Maximum penalty: 20 penalty units

31.10 A person must not deposit any of the following in an *approved waste receptacle*, *approved recycling receptacle*, or *approved green waste receptacle*.

31.10.1 hazardous waste or chemicals,

31.10.2 hot ashes,

31.10.3 a gas bottle or any container of pressurised gas,

31.10.4 building or renovation waste,

31.10.5 soil, bricks or rubble,

31.10.6 medical waste, veterinary waste or syringes,

31.10.7 tyres.

Maximum penalty: 20 penalty units

32. Hard rubbish

32. A person must not deposit hard rubbish on a *road* (including a road reserve, footpath or nature strip) except in accordance with:

32.1 a hard rubbish collection that has been booked with the Council; and

32.2 *Council guidelines*.

Maximum penalty: 20 penalty units

33. Interference with waste

33. A person must not, except with Council's consent, remove or interfere with any waste placed out for a hard rubbish collection or for collection in an *approved waste receptacle*, *approved recycling receptacle*, or *approved green waste receptacle*.

Maximum penalty: 20 penalty units

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34. Trade waste hoppers

34.1 The owner or *occupier* of any land must ensure that any *trade waste hopper* kept on the land is constructed and maintained in accordance with any requirements specified in *Council guidelines*.

Maximum penalty: 20 penalty units

34.2 A person must not collect any trade waste from any *trade waste hopper* before 7am or after 8pm Monday to Saturday and before 9am or after 8pm on any Sunday or public holiday.

Maximum penalty: 20 penalty units

34.3 A person must not place a *trade waste hopper* on a *road* or *Council land* for longer than is practicably required for the emptying of the *trade waste hopper*.

Maximum penalty: 20 penalty units

34.4 A person must not place a *trade waste hopper* in a manner which causes or is likely to cause:

34.4.1 an obstruction; or

34.4.2 danger,

to any person on a *road* (including a road reserve, footpath or nature strip) or *Council land*.

Maximum penalty: 20 penalty units

34.5 An *occupier* of land that uses a *trade waste hopper* must ensure the lid of the *trade waste hopper* is closed at all times.

Maximum penalty: 20 penalty units

34.6 An *occupier* of land that uses a *trade waste hopper* must repair any damage caused by the placing or emptying of the trade waste hopper, to any vehicle crossing, *road*, footpath, kerb or drain.

Maximum penalty: 20 penalty units

34.7 An *occupier* of land that uses a *trade waste hopper* must ensure that any area where an *trade waste hopper* is kept is maintained in a clean and sanitary condition.

Maximum penalty: 20 penalty units

35. Screening of bins and trade waste hoppers

35.1 The *Council* or an *Authorised Officer* may, by notice in writing, direct the owner or *occupier* of land to install, repair, replace or modify a fence or other means of screening an *approved waste receptacle*, *approved recycling receptacle*, *approved green waste receptacle*, or *trade waste hopper* from public view if the *approved waste receptacle*, *approved recycling receptacle*, *approved green waste receptacle*, or *trade waste hopper* is, in the opinion of Council or an *Authorised Officer* unsightly, dangerous or detrimental to the amenity of the neighbourhood.

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Maximum penalty: 20 penalty units

35.2 A person must comply with a notice issued to them under clause 35.1 within any time specified in the notice.

Maximum penalty: 20 penalty units

36. Transportation of waste

36. A person must not convey or cause to be conveyed in any *motor vehicle* on any *road* in the *municipal district*, any *noxious weeds*, manure, dead animal or remains, offal, bones, hides, skins, offensive matter, refuse, rubbish or other waste matter unless the vehicle is constructed, fitted, loaded and covered so that:

- 36.1 no leakage occurs or material is dropped or deposited on any road or adjacent area from the vehicle; and
- 36.2 the possibility of escape of offensive odours is minimised, to the satisfaction of an *Authorised Officer*.

Maximum penalty: 20 penalty units

37. Use of municipal landfill and transfer station

- 37.1 A person must not use a municipal landfill and transfer station unless the person:
 - 37.1.1 pays any fees and charges applicable to the use of the service, and;
 - 37.1.2 complies with the terms, conditions, directions and signs determined by the Council for use of the municipal landfill and transfer Station.

Maximum penalty: 20 penalty units

- 37.2 A person must not remove material of any kind which has been deposited at the municipal landfill and transfer station, without a *permit*.

Maximum penalty: 20 penalty units

Explanatory note:
All of the clauses that relate to *municipal places* (at Clauses 11 and 12) apply to *municipal landfill and transfer stations*.

38. Dumping of refrigerators, trunks or similar containers.

- 38.1 A person must not place, leave or allow to remain a disused refrigerator, ice- chest, ice-box, clothes washer or dryer, trunk, chest or any other similar article having a compartment which has a capacity of greater than 0.04 cubic metres at any *municipal place, public place* or unfenced vacant land in the *municipal district*

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without first:

38.1.1 removing every door and lid; or

38.1.2 removing every lock, catch and hinge attached to a door or lid; or

38.1.3 otherwise rendering every door and lid incapable of being fastened.

Maximum penalty: 20 penalty units

Explanatory note:

The *Environment Protection Act 2017* creates offences to dump litter in a place other than one provided for the placing of litter.

Municipal place includes a municipal landfill and transfer station.

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Part 5 Land use and amenity issues

39. Numbering of allotments

39.1 *Council* may from time to time allot a number to land and may from time to time change the numbering.

39.2 The owner or occupier of land to which a number has been allotted by the *Council* must mark the land with the number in a form and of sufficient size and in an unobstructed position so as to be clearly visible and legible from the adjacent *road*.

Maximum penalty: 20 penalty units

39.3 The owner or occupier of land must ensure that all numbers marking the land are:

39.3.1 made of durable materials;

39.3.2 kept in a good state of repair; and

39.3.3 renewed as often as may be necessary.

Maximum penalty: 20 penalty units

39.4 A person must not display a number on or in connection with any land unless the number has been allotted to the land by the Council.

Maximum penalty: 20 penalty units

40. Obstruction to visibility

40.1 The owner or occupier of any land within 9 metres of an intersection of two or more *roads* must not allow a tree, shrub or hedge located on the land to grow, or a structure, container, bin, building materials or any other object to be placed, so that there is an obstruction to the clear view:

40.1.1 by a driver, of a pedestrian, *motor vehicle* or *traffic control item*, or

40.1.2 by a pedestrian, of a *motor vehicle* or *traffic control item*.

Maximum penalty: 20 penalty units

41. Overhanging and encroaching vegetation

41. An owner or occupier of land must not allow a tree, shrub, hedge or other vegetation on that land:

41.1 to overhang a *road* (including a road reserve, footpath or nature strip), at a height of less than four metres from the surface of the *road*, or

41.2 to encroach upon any *road* (including a road reserve, footpath or nature strip), or *public place*.

Maximum penalty: 20 penalty units

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Explanatory note:

For a full definition of *road*, see the definitions at Clause 10.

42. Obstructions to roads, footpaths and road reserves

42.1 A person must not leave or allow to be left any -

42.1.1 bulk rubbish container; or

42.1.2 any thing or material

that encroaches on a *road* (including a road reserve, footpath or nature strip), or obstructs the free use of a *road* or that reduces the breadth, or confines the limits, of a *road*, without a *permit*.

Maximum penalty: 20 penalty units

42.2 An *Authorised Officer* may *impound* any -

42.2.1 bulk rubbish container; or

42.2.2 other thing or material

that is left contrary to clause 42.1 or contrary to the conditions of a *permit* issued under this Local Law.

42.3 The *Council* or an *Authorised Officer* may exempt -

42.3.1 a person;

42.3.2 a class of persons; or

42.3.3 a body corporate-

from the application of clause 42.1

43. Camping

43.1 A person must not camp or occupy a tent, *caravan*, *movable dwelling* or temporary structure, in any *public place* (except within a *camping area*) without a *permit*.

Maximum penalty: 20 penalty units

43.2 Clause 43.1 does not apply:

43.2.1 to any private land that is *caravan park* within the meaning of the *Residential Tenancies Act 1997*; or

43.2.2 where it forms part of a permitted use and development of the land under the *Cardinia Planning Scheme* or is permitted in accordance with a planning permit issued under the *Planning and Environment Act 1987*.

Explanatory note:

Camping area is defined in Clause 10.2.

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Movable dwelling is defined in Clause 10.2.

44. Caravans, movable dwellings and temporary dwellings

44.1 A person must not occupy:

44.1.1 a *caravan*, or

44.1.2 a *movable dwelling*, or

44.1.3 any other temporary structure or dwelling

on private land for more than 14 days within any 28 day period, without a *permit*.

Maximum penalty: 20 penalty units

44.2 A person may apply for a *permit* to place and occupy a *caravan* or *movable dwelling* on the property for the purpose of residing in while they construct a dwelling on a vacant property, or for any other reason.

44.3 A *permit* to place and occupy a caravan or *movable dwelling* must not be granted if the effect of the *permit* entitles a caravan or *movable dwelling* to be occupied for more than 2 years.

44.4 *Permits* issued in accordance with this clause shall expire at the expiration of 2 years from the date the issue or upon the issue of an Occupancy Permit for the dwelling, whichever occurs sooner.

44.5 A person who has been granted a *permit* under this Local Law must remove the caravan or *movable dwelling* from the land to which the *permit* relates, immediately upon

44.5.1 the expiration of the *permit*, or

44.5.2 otherwise as required by the conditions of *permit*.

Maximum penalty: 20 penalty units

44.6 Clause 44.1 does not apply:

44.6.1 to any private land that is *caravan park* within the meaning of the *Residential Tenancies Act 1997*; or

44.6.2 where it forms part of a permitted use and development of the land under the *Cardinia Planning Scheme* or is permitted in accordance with a planning permit issued under the *Planning and Environment Act 1987*.

Explanatory note:

Movable dwelling is defined in clause 10.2.

45. Keeping animals, birds and livestock

45.1 An owner or occupier of:

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- 45.1.1 any land having an area of less than 1,000m² must not keep or allow to remain on the land more animals than the amount specified in **Column 2 in Table 1**, of the kind of animals specified in **Column 1 of Table 1**, and must not keep more than 20 animals of any kind; or
- 45.1.2 any land having an area of between 1,000m² to 4,000m² must not keep or allow to remain on the land more animals than the amount specified in **Column 3 in Table 1**, of the kind of animals specified in **Column 1 of Table 1**, and must not keep more than 20 animals of any kind, or
- 45.1.3 any land having an area greater than 4,000m² must not keep or allow to be remain on the land more than the amount of animals specified in **Column 4 in Table 1**, of the kind of animals specified in **Column 1 of Table 1**, or
- 45.1.4 any land having an area less than 1,000m² must not keep **livestock**, or allow any **livestock** to remain on the land, or
- 45.1.5 any land having an area less than or equal to 4000m² must not keep a rooster, or allow a rooster to remain on the land, without a **permit** issued under this Local Law, or a planning permit issued under the *Planning and Environment Act 1987*.
- 45.2 Clause 45.1 does not apply to any land used to conduct a pet shop in accordance with a valid **domestic animal business** permit, within the meaning of the *Domestic Animals Act 1994*.

| Column 1 – Type of animals | Column 2 – Land less than 1000m ² | Column 3 – Land of between 1,000m ² to 4000m ² | Column 4 – Land greater than 4000m ² |
|--------------------------------------|--|--|---|
| Dogs | 2 | 2 | 4 |
| Cats | 2 | 2 | 4 |
| Large birds | 5 | 5 | Not limited by this Local Law |
| Poultry | 5 | 5 | Not limited by this Local Law |
| Roosters | Not permitted without a permit | Not permitted without a permit | Not limited by this Local Law |
| Livestock | Not permitted without a permit | Not limited by this Local Law | Not limited by this Local Law |
| MAXIMUM TOTAL OF ANIMALS OF ANY KIND | 20 | 20 | Not limited by this Local Law |

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Table 1. Maximum permitted animals without a permit

Maximum penalty: 20 penalty units

45.3 For the purposes of clause 45.1, any of the following animals are not to be counted:

45.3.1 any *large bird* or *poultry* that is less than 12 weeks old, or

45.3.2 any dog or cat that is less than 3 months old.

Explanatory note:

In addition to this Local Law, the *Cardinia Planning Scheme* may affect a person's right to keep and use animals on land.

45.4 In accordance with clause 86 an *Authorised Officer* may impound any animal that is kept in contravention of clause 45.1.

46. Keeping animals must not cause a nuisance

46. A person must not keep an animal in conditions that cause a nuisance to any other person or are offensive, injurious to health or dangerous.

Maximum penalty: 20 penalty units

47. Animal buildings and cleanliness

47.1 A person must not:

47.1.1 erect or use, or

47.1.2 allow the erection or use,

of a kennel, *poultry house* or *pigeon loft* unless it is:

47.1.3 in the case of a kennel, at least 1 metre from the boundary of any adjoining land, or

47.1.4 in the case of a *poultry house* or a *pigeon loft*, at least 3 metres from any neighbouring dwelling.

Maximum penalty: 20 penalty units

47.2 A person must not keep:

47.2.1 any poultry other than in a *poultry house*, or

47.2.2 any pigeons other than in a *pigeon loft*.

Maximum penalty: 20 penalty units

47.3 An owner or occupier of any land on which an animal is kept must ensure that the part of the property in which the animal is kept or which is used by the animal complies with each of the following:

47.3.1 it is maintained in a clean, inoffensive and sanitary condition,

47.3.2 it is maintained so as not to cause a nuisance to any person or to be

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offensive, injurious to health or dangerous,

47.3.3 adequate clean drinking water is provided, and

47.3.4 adequate sustenance to the satisfaction of an *Authorised Officer* is provided.

Maximum penalty: 20 penalty units

47.4 An owner or occupier of land on which any stallion, colt, bull, stag or other large sexually entire male animal is kept must ensure that the animal is kept in a secure enclosure, to the satisfaction of an *Authorised Officer*.

Maximum penalty: 20 penalty units

47.5 An owner or occupier of land on which any animal is kept must ensure that all food for consumption by animals (except hay) is kept or stored in rodent-proof receptacles or rodent-proof buildings.

Maximum penalty: 20 penalty units

Explanatory note:

Clause 62 prohibits all owners and occupiers of land from allowing the land to be a haven for *noxious weeds, environmental weeds* or pest animals.

48. Animal noise

48.1 An owner or occupier of any land must take all *reasonable steps*:

48.1.1 to prevent any animal making *unreasonable noise* on the land; or

48.1.2 to prevent any noise caused by an animal being emitted from the land which in the opinion an *Authorised Officer* is:

48.1.2.1 *unreasonable or objectionable* to a person on other land or premises; or

48.1.2.2 *adversely affects the amenity* of any person on other land or premises.

Maximum penalty: 20 penalty units

48.2 For the purposes of clause 48.1, in determining whether noise is *unreasonable* or *objectionable* or *adversely affects the amenity*, regard must be had to:

48.2.1 its volume, intensity or duration; and

48.2.2 the time, place and other circumstances in which it is emitted.

48.3 For the purposes of clause 48.1, *reasonable steps* to prevent the noise include (but are not limited to):

48.3.1 identifying and modifying stimuli or conspicuous causes of the animal's behaviour, and

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- 48.3.2 controlling or modifying the physical environment in which the animal is kept, and
- 48.3.3 (where the animal causing the noise is a dog) the owner and the dog participating in behavioural training, and
- 48.3.4 (where the animal causing the noise is a dog) using an anti-barking citronella collar, and
- 48.3.5 (where the animal causing the noise is a dog, and where veterinary approval has been obtained) using a shock collar, and
- 48.3.6 obtaining advice from a veterinarian or animal behaviourist and implementing that advice, and
- 48.3.7 securing the animal within a dwelling unless supervised by a person capable of preventing the animal from making *unreasonable or objectionable noise*, or noise *adversely affecting the amenity* of any person on other land or premises, and
- 48.3.8 considering removal of the animal from the land or dwelling, and
- 48.3.9 keeping records of any steps taken, including the dates and times that steps were taken and the effectiveness of such steps, and providing those records to the Council upon request by an *Authorised Officer*.

Maximum penalty: 20 penalty units

49. Animal waste

49. An owner or person in apparent control of an animal must:

- 49.1 not allow any part of that animal's excrement to remain on any *road* (including a road reserve, footpath or nature strip) or *public place* or any other land not occupied by that person,
- 49.2 ensure that the means by which to collect and dispose of that animal's excrement are carried and used by any person in apparent control of the animal when the animal is not on the property occupied by that person, and
- 49.3 not allow any animal excrement to be moved (whether by washing, sweeping or otherwise) from any property on to a *road* (including a road reserve, footpath or nature strip).

Maximum penalty: 20 penalty units

50. Adequate animal fencing

50. The owner or occupier of land on which an animal is kept must ensure that the land is adequately fenced to prevent the escape of the animal from the land.

Maximum penalty: 20 penalty units

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51. Livestock on roads

51.1 A person who is:

51.1.1 the *owner* of *livestock*, or

51.1.2 in apparent control of any *livestock*,

must not allow *livestock* to graze or be driven on any *road*, without a *permit*, unless clause 52 applies.

Maximum penalty: 20 penalty units

51.2 Unless a *permit* has been issued under this Local Law or clause 52 applies, the *owner* of *livestock* that is:

51.2.1 found at large or not securely confined, and

51.2.2 on a *road* (including a road reserve, footpath or nature strip),

is guilty of an offence.

Maximum penalty: 20 penalty units

51.3 Unless a *permit* has been issued under this Local Law or clause 52 applies, the *owner* of any *livestock* that is:

51.3.1 found at large or not securely confined, and

51.3.2 on land (other than a *road*)

is guilty of an offence.

Maximum penalty: 20 penalty units

51.4 An *Authorised Officer* may *impound* any *livestock* if the *Authorised Officer* has a reasonable belief that a person has committed an offence against clause 51.1, clause 51.2, clause 51.3, clause 51.5 or clause 51.6 in respect of the *livestock*.

51.5 The:

51.5.1 *owner* of *livestock*, or

51.5.2 person in apparent control of *livestock*,

found at large or not securely confined to the *owner's* property must immediately comply with any instruction or direction to move such *livestock* given by an *Authorised Officer* or a member of an *emergency service*.

Maximum penalty: 20 penalty units

51.6 Any:

51.6.1 *owner* of *land*, or

51.6.2 *owner* of *livestock*

must not allow *livestock* to graze on or remain on any land that abuts a *road* (including a road reserve, footpath or nature strip) without the *land* having adequate fencing to prevent the *livestock* from leaving the *land* and entering that abutting *road* or adjoining property.

Maximum penalty: 20 penalty units

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- 51.7 The owner of any vacant rural land leased for the grazing of livestock must advise the Council of the contact details for the owner of the livestock grazed on the land from time to time so that the owner of the livestock can be contacted.

Maximum penalty: 20 penalty units

52. Exception for livestock on roads

- 52.1 A person does not commit an offence under Clause 51 if, at the time of the offence:
- 52.1.1 the person complies wholly with the “Manual for Traffic Control at Stock Crossings” incorporated under clause 9.2 of this Local Law including obtaining all necessary permissions from the relevant road authority, and
 - 52.1.2 the *livestock* were supervised and under effective control of a persons who are competent in the management of *livestock*, and
 - 52.1.3 the person has a current public liability insurance policy that relates to stock movements of *roads* on which the Council’s interest is noted, and that proof of such notation is produced to the Council on written request.

53. Use of recreational vehicles

- 53.1 A person must not use a *recreational vehicle* on *Council land* or a *Municipal reserve*, without a *permit*.

Maximum penalty: 20 penalty units

- 53.2 A person must not ride any unregistered *recreational vehicle* in a *public place*, except where the use of the *recreational vehicle* in the *public place* forms part of a permitted use of the land under the *Cardinia Planning Scheme* or in accordance with a planning permit issued under the *Planning and Environment Act 1987*.

Maximum penalty: 20 penalty units

- 53.3 A person who owns an unregistered *recreational vehicle* must not knowingly allow another person to ride the *recreational vehicle* in a *public place*, except where the use of the *recreational vehicle* in the *public place* forms part of a permitted use of the land under the *Cardinia Planning Scheme* or in accordance with a planning permit issued under the *Planning and Environment Act 1987*.

Maximum penalty: 20 penalty units

- 53.4 A person must not use a *recreational vehicle*, or allow a *recreational vehicle* to be used on *private land* within the *municipal district*:

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53.4.1 unless a *permit* has been issued in accordance with this Local Law, or in accordance with a planning permit issued under the *Planning and Environment Act 1987*, or

53.4.2 contrary to a *permit* issued in accordance with this Local Law.

Maximum penalty: 20 penalty units

53.5 An owner or occupier of *land* must not knowingly allow a person under the age of 18 to use a *recreational vehicle* on the *land* unless it is in accordance with this Clause.

Maximum penalty: 20 penalty units

53.6 An *Authorised Officer* may

53.6.1 *impound* a *recreational vehicle* being used in contravention of this Local Law in accordance with Clause 85.

53.7 *Permits* for the use of a *recreational vehicle* if approved, may be subject to conditions.

54. Noise

A person must not:

54.1 cause a noise; or

54.2 knowingly allow or suffer a noise,

to emanate from any land owned or occupied by that person which in the opinion of an *Authorised Officer* is unreasonable or which would cause discomfort to other persons.

Maximum penalty: 20 penalty units

55. Noisy vehicles

A person must not

55.1 cause an *unreasonable noise*, or

55.2 permit an *unreasonable noise* to be emitted,

from a *motor vehicle* in an area zoned as residential under the *Cardinia Planning Scheme*.

Maximum penalty: 20 penalty units

56. Audible intruder alarms

56.1 An owner or *occupier* of any land must not:

56.1.1 install,

56.1.2 allow to be installed, or

56.1.3 cause to be retained and active

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on the land any form of *audible intruder alarm* unless clause 56.2 applies.

Maximum penalty: 20 penalty units

56.2 Despite clause 56.1, an owner or occupier of land may install, allow to be installed, or cause to be retained and active, an *audible intruder alarm* provided the alarm is constructed or regulated to ensure that:

56.2.1 whenever a detective device is activated the *audible intruder alarm* is automatically rendered inaudible beyond the boundary of the land within five (5) minutes of being activated, and

56.2.2 the *audible intruder alarm* cannot reactivate following the operation of that single detective device until the alarm condition has been manually reset.

56.3 An *audible intruder alarm* may operate for a further period of five (5) minutes following the cessation of the alarm in accordance with clause 56.2.1 provided the alarm is activated by a different detection device.

56.4 If an Audible Intruder Alarm fails to comply with clause 56.2, an *Authorised Officer* may issue the owner or occupier of land with a *notice to comply* requiring that the *audible intruder alarm* be brought into compliance with this Local Law.

57. Fireworks

57. An owner or occupier of *land* must not allow their *land* to be used for the conduct of a fireworks display unless the display is undertaken in accordance with the requirements of the *Dangerous Goods (Explosives) Regulations 2022*.

Maximum penalty: 20 penalty units

58. Fire prevention and fire hazards

58. An owner or occupier of any land must not allow:

58.1 any land (not including a building on the land), or

58.2 the adjacent half width of any private street that abuts that land, that by its nature, composition, condition or location constitutes or may constitute a danger to life or property from the threat of fire.

Maximum penalty: 20 penalty units

59. Unsightly land and graffiti

59.1 An owner or occupier of any *private land* must not allow the land to be kept in a manner which is *unsightly*.

Maximum penalty: 20 penalty units and a penalty not exceeding 2 penalty units for each day after a finding of guilt or conviction for an offence during which the contravention continues

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- 59.2 For the purposes of Clause 59.1, **unsightly** includes any land containing:
- 59.2.1 unconstrained rubbish, or
 - 59.2.2 excessive vegetation growth, or
 - 59.2.3 a disused excavation, or
 - 59.2.4 waste material, or
 - 59.2.5 a **building** which is incomplete and not currently being constructed, or
 - 59.2.6 a **building** or other structure or thing which is **detrimental to the amenity of the area**, or
 - 59.2.7 a **building** or other structure or thing which is **dilapidated**, or
 - 59.2.8 graffiti on any building, structure or boundary fence, or
 - 59.2.9 any other item or combination of items that in the opinion of an **Authorised Officer** is **detrimental to the amenity of the area**.
- 59.3 For the purpose of clause 59.2, **detrimental to the amenity of the area** means, in the opinion of an **Authorised Officer**, it has substantial adverse visual impact in the context of the surrounding area taking into account its appearance to the street, neighbouring properties or any **public place**, but does not take into account the intended design or siting of a **building**.
- 59.4 For the purpose of clause 59.2.7 a **building** structure or thing is **dilapidated** if it is in a state of disrepair or has deteriorated or fallen into a state of partial ruin as a result of its age, neglect, poor maintenance or misuse, but does not include any **building** structure or thing which is subject to a specific control made under section 6B of the *Planning and Environment Act 1987* that applies to the land under the Specific Controls Overlay of the *Cardinia Planning Scheme*.

Explanatory note

A planning permit under the *Cardinia Planning Scheme* and/or a building permit under the *Building Act 1993* may be required in some instances for works that need to be undertaken to comply with this clause. Where required, these permits must also be obtained in addition to complying with this Local Law.

60. Shipping containers

60. The owner or occupier of any **land** must not cause or allow a shipping container to be placed on the **land**, without:
- 60.1 a **permit** issued in accordance with this Local Law, or
 - 60.2 a planning permit issued in accordance with the *Planning and Environment Act 1987*.

Maximum penalty: 20 penalty units

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61. Dangerous land

- 61.1 The owner or occupier of any *land* must not allow the *land* to be;
- 61.1.1 kept in a manner which is dangerous or likely to cause danger to health, life or property, or
 - 61.1.2 used for the storage of any substance which is dangerous, or
 - 61.1.3 in any other condition which in the opinion of an *Authorised Officer* is likely to cause danger to health, life or property.

Maximum penalty: 20 penalty units

- 61.2 Clause 61.1 does not apply to any danger to health, life or property arising:
- 61.2.1 from the condition of vegetation, unless the vegetation poses a risk to persons or property in a *public place*, or
 - 61.2.2 from the threat of fire.
- 61.3 Clause 61.1 does not apply to any land use where:
- 61.3.1 a *permit* for the use is issued under this Local Law, or
 - 61.3.2 a planning permit for the use is issued under the *Planning and Environment Act 1987*.
- 61.4 If an owner or occupier of any land allows the land to be:
- 61.4.1 kept in a manner which is dangerous or likely to cause danger to health, life or property, or
 - 61.4.2 used for the storage of any substance which is dangerous, or
 - 61.4.3 in any other condition which in the opinion of an *Authorised Officer* is likely to cause danger to health, life or property
- an *Authorised Officer* may serve a *notice to comply* to the owner or occupier of the land, directing the owner to take reasonable steps to reduce the danger or risk, including (but not limited to) erecting, repairing, replacing or modifying fencing enclosing the land or a part of the land.
- 61.5 A *notice to comply* served in accordance with Clause 61.4 may specify:
- 61.5.1 the material with which any fencing to be erected must be constructed; and
 - 61.5.2 the height and other dimensions of the fencing to be erected.

Explanatory note:

Clause 88 makes it an offence to fail to comply with a *notice to comply* issued under this Local Law.

Clause 87 describes what a *notice to comply* must include, and Clause 87 describes how a *notice to comply* may be served.

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62. Weeds and pest animals

62. The owner or occupier of land must not allow the land or adjoining nature strip to be a haven for *noxious weeds*, *environmental weeds* or *pest animals*.

Maximum penalty: 20 penalty units

Explanatory note:

Under the *Catchment and Land Protection Act 1994* it is the responsibility of land owners to take all reasonable steps to prevent the spread of regionally controlled weeds and established *pest animals* on a roadside that adjoins the land owner's land.

Noxious weed and *pest animal* have the same meanings as set out in the *Catchment and Land Protection Act 1994*.

A full list of *noxious weed* and *pest animal* species can be obtained from the Council, or from the Department of Energy, Environment and Climate Action.

63. Interference with vegetation

63.1 A person must not destroy, damage, lop, remove or otherwise interfere with any trees or vegetation (whether living or dead) on any *Council land* or *road* (including a road reserve, footpath or nature strip), without written consent of the *Council*.

Maximum penalty: 20 penalty units

63.2 Clause 63.1 does not apply to the mowing of grass on a nature strip or to the control of noxious weeds or environmental weeds on a nature strip.

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Part 6 Protection and management of council assets and infrastructure

Explanatory note:

Clause 8 of this Local Law exempts:

- a) employees of the Council, and
- b) contractors directly engaged by the Council to undertake works or perform a service

from the operation of this Part.

64. Maintenance of drains

64.1 The owner or occupier of any land must ensure that any drain on the land or which drains from the land and connects to a drain owned or managed by the Council:

- 64.1.1 is maintained in a condition that is not dangerous to health, unsightly or a nuisance, and
- 64.1.2 is maintained in a working condition.

Maximum penalty: 20 penalty units

64.2 The owner of any land that is developed and on which a groundwater pump and filtration system to pump filtered groundwater into the *stormwater system* operates must, upon being requested by *Council* to do so, provide *Council* with evidence that the pump and filtration system have been serviced within the previous 12 months and are operating in accordance with relevant standards.

64.3 An *Authorised Officer* may direct the owner of land to arrange a suitably qualified person to service and test the ground water pump and filtration system referred to in clause 64.2, if it has not been serviced within the previous 12 months.

64.4 A failure to comply with a request under clause 64.2 or a direction under clause 64.3 is an offence.

Maximum penalty: 20 penalty units

65. Protection of drains

65. A person must not, -

- 65.1 destroy, or
- 65.2 damage, or
- 65.3 tap into,

any drain vested in the Council, without a *permit*.

Maximum penalty: 20 penalty units

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66. Protection of roads

Explanatory note:

The term *road* includes the road reserve, nature strip, footpaths adjacent to a road.

For a full definition of *road*, see the definitions at Clause 10.

- 66.1 A person must not
- 66.1.1 occupy or fence off, or
 - 66.1.2 erect a hoarding or scaffolding on, or
 - 66.1.3 use a mobile crane or travel tower for any work on, or
 - 66.1.4 make a hole or excavation in, or
 - 66.1.5 fill a hole or excavation in, or
 - 66.1.6 remove, damage or interfere with a temporary traffic signal, sign, barrier or other structure erected to protect pedestrians or regulate traffic on any *road* or part of a *road* under the control of the *Council*, without a *permit*.
- Maximum penalty: 20 penalty units**
- 66.2 Any person that undertakes work on a *road* or part of a *road* under the control of the *Council*, must perform the work to the satisfaction of the *Council*.
- Maximum penalty: 20 penalty units**
- 66.3 An *Authorised Officer* may impound any object or equipment being used in contravention of Clause 66.1 or in contravention of a *permit* issued under this Local Law.
- 66.4 The *Council* may exempt -
- 66.4.1 a person, or
 - 66.4.2 a class of persons, or
 - 66.4.3 a body corporate-
- from the application of this Clause.
- 66.5 A person who makes a hole or excavation in a *road* or part of a *road* under the control of the *Council* must ensure that appropriate signs are displayed in accordance with the applicable Australian Standard.
- Maximum penalty: 20 penalty units**

67. Protection of assets and land

- 67.1 A person must not:
- 67.1.1 damage, interfere with, destroy or deface, or
 - 67.1.2 undertake an activity which may damage, interfere with or destroy, or
 - 67.1.3 build or fill over, conceal or plant vegetation that may cause damage near,

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a bridge, fence, footpath, nature strip, *road*, *municipal reserve*, service conduit, fire plug, hydrant or other asset vested in or under the control of the Council, without a *permit*.

Maximum penalty: 20 penalty units

67.2 The *Council* may inspect:

67.2.1 any connection to a *Council* asset, or

67.2.2 any works undertaken within a *road* or easement,

and impose a fee determined in accordance with clause 92 for the connection or inspection.

68. Vehicle crossings

68.1 The owner or occupier of any land must ensure that:

68.1.1 each point of vehicle access to that land from a *road* has a vehicle crossing linking that *road* to the property, constructed to the satisfaction of Council, and

68.1.2 no vehicle is allowed to enter or leave the land except by using the vehicle crossing referred to in clause 68.1.1, or in accordance with an *Asset Protection Permit* issued under clause 70, and

68.1.3 a redundant crossing is removed where directed in writing by the *Council*.

Maximum penalty: 20 penalty units

68.2 A person must not permanently or temporarily construct, remove or alter a vehicle crossing:

68.2.1 without a planning permit issued in accordance with the *Planning and Environment Act 1987*, or

68.2.2 without an *Asset Protection Permit* issued in accordance with clause 70, or

68.2.3 in accordance with a *permit* or written consent provided by the *Council*.

68.3 A person who fails to comply with Clause 68.1 is guilty of an offence and must repair any damage caused to the asset or if the *Council* elects, pay to the *Council* the actual or reasonable estimated cost of repairing the damage.

Maximum penalty: 20 penalty units

68.4 Any work in respect of an asset must be performed to the satisfaction of the *Council*.

Maximum penalty: 20 penalty units

69. Spoil on roads

69.1 A person must not allow any soil, earth, mud, clay, liquid waste or like substance to fall or escape onto a *road* from any vehicle which they are driving, or from any

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equipment which he or she is operating in the course of any trade, industry or commercial undertaking.

Maximum penalty: 20 penalty units

69.2 A person must not allow any grease, oil, mud, clay or like substance to run off a motor vehicle that he or she is cleaning in the course of any trade, industry or commercial undertaking onto a *road*, or into a drain.

Maximum penalty: 20 penalty units

69.3 A person must remove any soil, earth, mud, clay, or excrement deposited on a *road* by any animals under his or her effective control.

Maximum penalty: 20 penalty units

70. Asset protection permits

70.1 On the payment of an application fee determined in accordance with clause 92 of this Local Law, the *Council* may issue an *Asset Protection Permit* in respect of any land where *building work* is to be carried out.

70.2 A person must not commence any *building work* without having an *Asset Protection Permit* issued in respect of the *building work*.

Maximum penalty: 20 penalty units

70.3 A person must comply with any condition on an *Asset Protection Permit*.

Maximum penalty: 20 penalty units

70.4 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.

70.5 The *Asset Protection Permit* may be subject to such conditions as *Council* determines, including (but not limited to):

70.5.1 requiring protection works to be done, or

70.5.2 requiring the payment of an *Asset Protection Bond*, or

70.5.3 requiring the erection of temporary fencing to the satisfaction of *Council*,
or

70.5.4 requiring that any public asset or infrastructure damage be repaired,
replaced or reinstated within a specified time.

70.6 Unless it is renewed sooner, an *Asset Protection Permit* expires on the date specified in the permit and if not specified, 12 months after the date of its issue.

70.7 The owner, *builder* or *appointed agent* must:

70.7.1 notify *Council* in writing, of proposed *building work* at least 7 days before
building work commences, and

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- 70.7.2 provide **Council** with notice in writing of any prior damage to any **road** (including a road reserve, footpath or nature strip), or other asset at least 7 days prior to the commencement of any **building work** or the delivery of any equipment or building materials.

Maximum penalty: 20 penalty units

Explanatory note:

The owner, **builder** or appointed agent must notify the Council in accordance with Clause 70.7, regardless of whether a building permit has been issued.

- 70.8 The owner, **builder** or **appointed agent** responsible for **building work** must repair or reinstate any damaged **road**, drain, nature strip, kerb, channel, vehicle crossing or other assets vested in **Council** adjacent to the land where the **building work** takes place or which is otherwise affected by the **building work**, and any repair work must be performed to the satisfaction of the Council.

Maximum penalty: 20 penalty units

- 70.9 The amount of any **Asset Protection Bond** required under clause 70.5.2 may be determined by resolution of the **Council**, and may take into account:
- 70.9.1 the type, size and nature of the **building work** being undertaken, and
- 70.9.2 the total building cost of the work being undertaken, and
- 70.9.3 the likely impact of the proposed building on assets and infrastructure in the vicinity, and
- 70.9.4 any other factor.
- 70.10 The permit holder must notify **Council** within 7 days upon the completion of **building work** the subject of the **Asset Protection Permit**.

Maximum Penalty: 20 penalty units

- 70.11 Upon notification by the permit holder of the completion of the **building work** the subject of the **Asset Protection Permit**, **Council** will inspect **Council's** assets to determine if any damage has been caused as a result of the execution of the **building work** the subject of the **Asset Protection Permit** and may:
- 70.11.1 refund to the permit holder, upon **Council's** satisfaction that no damage has been caused to **Council's** assets, or that any damage caused to **Council** assets has been repaired to **Council's** satisfaction, the **Asset Protection Bond**, or
- 70.11.2 retain all or part of the **Asset Protection Bond** to offset all or part of the costs of repairing any damage, or
- 70.11.3 refund to the person who lodged the **Asset Protection Bond**, upon **Council's** satisfaction that no damage has been caused, or that any damage caused has been repaired to **Council's** satisfaction.

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- 70.12 For purposes of determining whether any damage to public assets has resulted from the execution of any **building work** on a property, failure to provide notice under clause 70.7.2 is *prima facie* proof that there was no existing damage to such assets prior to the **building work** taking place.
- 70.13 The **Council** may accept an alternative form of security to an **Asset Protection Bond**.
- 70.14 Without limiting the operation of this clause, where the permit holder has caused damage to assets vested in **Council**, and the cost to repair the damage exceeds the amount of the **Asset Protection Bond** paid in respect of the **building work** associated with the damage, **Council** may bring proceedings against the permit holder to recover the cost of the damage which is in excess of the amount of the **Asset Protection Bond**.
- 70.15 An **Asset Protection Permit** may be cancelled if an owner, **builder** or appointed agent is found guilty of an offence arising from a failure to comply with this Local Law.

71. Identifying damage to Council assets

- 71.1 Inspections of any **Council** assets, whether on private or public land, may be conducted at any reasonable time.
- 71.2 If **Council** identifies any damage that appears to result from non-compliance with this Local Law, an **Authorised Officer** may give a **notice to comply** to any person to reinstate the asset or repair any damage within a specified time.
- 71.3 An **Authorised Officer** may serve the responsible party with a **notice to comply** under Clause 71.2, specifying:
- 71.3.1 the time and date that the damage was observed, and
 - 71.3.2 a description of the damage to be repaired, and
 - 71.3.3 the date that the repair must be completed by (which must not be less than 28 days from the date of the notice).

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Part 7 Requirements of building sites

72. Stormwater protection

72. Where any *building work* is being carried out on any land, the owner, *builder* or *appointed agent* must ensure that the site is developed and managed to minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants, including (but not limited to) measures to:

- 72.1 minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting *roads* (including a road reserve, footpath or nature strip), or washed into the stormwater system, and
- 72.2 prevent building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the stormwater system.

Maximum penalty 20 penalty units

73. Containment of refuse

- 73.1 Prior to the commencement of any *building work* and continuing until the *completion of the building work*, the owner, *builder* or *appointed agent*:
 - 73.1.1 must provide a closed *facility* for the purpose of disposal of *builders' refuse* that may be wind-blown, and
 - 73.1.2 must place the *facility* on the *land* and keep it in place (except for such periods as are necessary to empty the *facility*), and
 - 73.1.3 must not place the *facility* on any *Council land* or *road* (including a road reserve, footpath or nature strip), without a *permit*, and
 - 73.1.4 must empty the *facility* whenever full and, if necessary, provide a replacement *facility* during the emptying process, and
 - 73.1.5 must prevent mud and dirt being carried out by vehicles from the building site onto adjoining *roads* (including a road reserve, footpath or nature strip), and
 - 73.1.6 must ensure that any abutting nature strip remains tidy, and
 - 73.1.7 must ensure that no materials, vehicles or items are placed on nature strips or other *Council land*, without a *permit*, and
 - 73.1.8 must ensure that any footpath adjacent to the land affected by the building work, is kept clear of mud and dirt at all times.

Maximum penalty: 20 penalty units

- 73.2 For the purpose of Part 7, *facility* means a suitable receptacle for *builders' refuse*, capable of restricting debris and waste from leaving the building site.
- 73.3 The Council may exempt:

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- 73.3.1 a person
 - 73.3.2 a class of persons, or
 - 73.3.3 a body corporate
- from the application of this clause.

74. Disposal of builders' refuse

74. Prior to the commencement of any *building work* and continuing until the *completion of the building work*, the owner, *builder* or *appointed agent* must:

- 74.1 ensure that all *builders' refuse* which is capable of being carried by wind is placed in the *facility* referred to in clause 73.1, and
- 74.2 ensure that *builders' refuse* that is not placed in the *facility* referred to in clause 73.1 is not deposited on any land other than the building site directly under their control, and
- 74.3 ensure that *builders' refuse* is not deposited in or over any part of the stormwater system.

Maximum penalty: 20 penalty units

75. Removal of builders' refuse

75. An owner, *builder* or *appointed agent* must remove all *builders' refuse* from a site where *building work* is undertaken, within 21 days of the *completion of building work*.

Maximum penalty: 20 penalty units

Explanatory note:

Clause 10 defines what the phrase *completion of building work* means.

76. Building site fencing

- 76.1 Clause 76.2 only applies to *building work* on *land* that is in:
 - 76.1.1 a Residential Zone (within the meaning of the Cardinia Shire Planning Scheme), and
 - 76.1.2 less than 1500m² in size.
- 76.2 An owner, *builder* or *appointed agent* engaged in *building work* must ensure that the site has *adequate site fencing* that complies with clause 76.3.

Maximum penalty: 20 penalty units

- 76.3 For the purposes of Clause 76.2, *adequate site fencing* means fences or gates of a temporary or permanent nature, that:
 - 76.3.1 extends to a height of not less than 1500mm, and
 - 76.3.2 is capable of preventing litter and *builders' refuse* from being blown from a building site by wind, and

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- 76.3.3 has only one vehicle access opening that:
 - 76.3.3.1 has a width of no greater than 2800mm, and
 - 76.3.3.2 is fitted with a gate with a height of not less than 1500mm which prevents litter from being blown from a building site by wind, and
 - 76.3.3.3 which is located to correspond with a vehicle crossing referable to the building site, and
- 76.3.4 does not obstruct or encroach upon any *road* (including a road reserve, footpath or nature strip), and
- 76.3.5 is sufficiently secure to withstand strong winds, and
- 76.3.6 otherwise does not pose a risk to persons, property, vehicles or assets in the vicinity.

77. Sanitary facilities on building sites

- 77.1 Prior to the commencement of any *building work*, and continuing to the *completion of building work*, the owner, *builder* or *appointed agent* must provide a sewerer toilet or a fresh water flushing portable toilet and ensure that it is serviced and available for the use of the persons on that site, to the satisfaction of an *Authorised Officer*.

Maximum penalty: 20 penalty units

- 77.2 Notwithstanding clause 77.1 an owner, *builder* or *appointed agent* may provide a sewerer toilet or a fresh water flushing portable toilet on an adjacent site under the control of the owner, *builder* or *appointed agent*, provided that:
 - 77.2.1 no more than 3 adjacent building sites rely on the same sewerer toilet or fresh water flushing toilet, and
 - 77.2.2 access to the sewerer toilet or fresh water flushing toilet is available for any person working on all three adjoining sites.
- 77.3 The owner, *builder* or *appointed agent* must advise Council within 7 days of the installation of a sewerer toilet and obtain *Council written consent* prior to removing a portable toilet from the site.

78. Identification of building sites

- 78.1 Prior to the commencement of any *building work* and continuing to the *completion of building work*, the owner, *builder* or *appointed agent* must erect and maintain a sign at the main entrance of the building site which:
 - 78.1.1 is at least 600 millimetres in height and 400 millimetres in width, and
 - 78.1.2 is placed in such a location as to be clearly visible and legible from the

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- road*, and
- 78.1.3 contains the lot number of the site as described in the relevant certificate of title, and
- 78.1.4 identifies the name, postal address and a business hours contact telephone number or numbers of the person in charge of the *building work*, and
- 78.1.5 identifies the *Asset Protection Permit* number applicable to the *building work*.
- 78.2 If, prior to the completion of the *building work*, there is a change of *builder*, the owner must, within seven days of that change,
- 78.2.1 give written notice to the *Council*, and
- 78.2.2 cause any sign erected in accordance with clause 78.1 to be replaced or amended so that the identification of the name, postal address and contact number or numbers of the person in charge of the *building work* is correct and up-to-date.
- 78.3 The notice under clause 78.2.1 must specify the date of the change of *builder* and be signed by the owner, and the new *builder*.
- 78.4 From the date of receipt of the notice under clause 78.2, the new *builder* specified in the notice is deemed to be the *builder* for the purposes of this Local Law.
- 78.5 Despite any rule of evidence, the inclusion of a person's name on a sign erected in accordance with clause 78.1, is *prima facie* proof that the person named is responsible for *building works* on the site within the meaning of this Local Law, unless the contrary is proven.

79. Building site work hours

- 79.1 A person must not without a *permit* carry out any *building work* outside of the *building site work hours*.
- 79.2 An owner or occupier of land must not allow any person without a *permit* to carry out any *building work* on that land outside of the *building site work hours*.

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Part 8 Council may issue permits

80. Council may issue permits

- 80.1 The *Council* may:
- 80.1.1 issue a *permit* under this Local Law with or without any conditions, or
 - 80.1.2 renew or extend a *permit*, or
 - 80.1.3 may refuse to issue a *permit*.
- 80.2 The *Council* may from time to time prescribe:
- 80.2.1 the manner and form in which applications for *permits* under this Local Law should be made,
 - 80.2.2 any policy that may apply to *permits* being issued, or the refusal to issue a *permit*,
 - 80.2.3 the manner in which any *permit* under this Local Law should be issued; and
 - 80.2.4 any other matter related to issuing *permits* under this Local Law.
- 80.3 An applicant for a *permit* must pay any application fee for the *permit* determined by *Council* under clause 92 of this Local Law.
- 80.4 The *Council* must keep a record of *permits*.
- 80.5 The *Council* may request further information prior to issuing, or refusing to issue, a *permit*.
- 80.6 The *Council* may require that notice of an application for a *permit* is publicised or otherwise brought to the attention of any affected person, at the expense of the applicant.
- 80.7 Unless it is extended sooner, a *permit* expires on the date specified in the *permit* or if no date is specified the *permit* will expire one year after the date of issue.
- 80.8 A *permit* may be issued subject to conditions, including (but not limited to):
- 80.8.1 a standard to be applied; or
 - 80.8.2 a time limit to be applied or specifying the duration, commencement or completion date; or
 - 80.8.3 the happening of an event; or
 - 80.8.4 the rectification, remedying or restoration of a situation or circumstance; or
 - 80.8.5 the consent of the owner of land, or any other person affected by the issuing of the *permit*; or
 - 80.8.6 the currency of public liability insurance in respect of any activity or conduct related to the issue of a *permit*; or
 - 80.8.7 the requirement to comply with any policy, code of practice or *Council*

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- guidelines* that Council has in force from time to time, and
- 80.8.8 the granting of some other permit or authorisation which may be required by Council whether under this Local Law or otherwise.

81. Considering applications for permits

- 81.1 In considering an application for a *permit* the *Council* may consider:
- 81.1.1 any policy or guideline adopted by the *Council* relating to the subject matter of the application for the *permit*;
 - 81.1.2 any submission that may be received in respect of the application;
 - 81.1.3 any comments that may be made in respect of the application by any public authority, Government department, community organisation or any other body or person; and
 - 81.1.4 the risk posed to public safety, property or *Council* assets by the proposed activity; and
 - 81.1.5 any anticipated impact on other persons of the proposed activity; and
 - 81.1.6 whether the concerns or issues raised regarding the proposed activities can be adequately controlled by *permit* conditions, and
 - 81.1.7 the objectives of this Local Law, and
 - 81.1.8 any other relevant matter.

82. Correction of permit

- 82.1 The *Council* may correct a *permit* if the *permit* contains:
- 82.1.1 a clerical mistake or an error arising from any accident, slip or omission; or
 - 82.1.2 an evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or property referred to in the *permit*.
- 82.2 The *Council* must note the correction in the record of *permits*.

83. Grounds for cancellation of or amendment of permits

- 83.1 The *Council* may cancel or amend any *permit* if the *Council* considers that there has been:
- 83.1.1 a material misstatement or concealment of facts in relation to the application for a *permit*, or
 - 83.1.2 any material mistake in relation to the issue of the *permit*, or
 - 83.1.3 any material change of circumstances which has occurred since the issue of the *permit*, or

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- 83.1.4 a failure to comply with the conditions under which the *permit* was issued;
or
 - 83.1.5 any breach of this Local Law, including a failure to comply with a *notice to comply* issued under this Local Law.
- 83.2 Prior to cancelling or amending a permit under Clause 83.1, the *Council* must notify the holder of a *permit* of:
- 83.2.1 the *Council's* intention to amend or cancel the *permit*, and
 - 83.2.2 the basis of the intended decision, and
 - 83.2.3 the *permit* holder's right to make a written submissions within a specified period before the *permit* is amended or cancelled.
- 83.3 The *Council* must consider any written submission made by the *permit* holder prior to making a decision to cancel or amend the *permit*.
- 83.4 The *Council* must record the cancellation or amendment of the *permit* in the record of *permits*, and must notify the *permit* holder in writing of the decision to cancel or amend the *permit*.

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Part 9 Enforcing this Local Laws

84. Service of documents

- 84.1 A *notice to comply* may be served:
- 84.1.1 by giving it to or serving it personally on the person to whom it is directed;
or
 - 84.1.2 by sending it by post to the person at the person's usual or last known residential or business address; or
 - 84.1.3 by leaving it at the usual or last known residential or business address of the person, with a person on the premises who is apparently at least 16 years old and apparently residing or employed there; or
 - 84.1.4 where the person is a body corporate, in a manner prescribed by any other Act or law for service on a body corporate of the same nature as the body corporate to be served.
- 84.2 Clause 84.1 does not apply to any document required to be served in accordance with the:
- 84.2.1 *Criminal Procedure Act 2009*
 - 84.2.2 *Infringements Act 2006*
 - 84.2.3 *Road Safety Act 1986*
 - 84.2.4 *Local Government Act 2020*
 - 84.2.5 *Local Government Act 1989*

85. Impounding and disposing of items

- 85.1 An *Authorised Officer*:
- 85.1.1 may *impound* any item that encroaches or obstructs the use of a *municipal place* or a *road*, or any item which contravenes or is being used in contravention of this Local Law, and
 - 85.1.2 must release the item to its owner on payment of a fee determined by *Council* in accordance with clause 92 of this Local Law, which does not exceed the reasonable costs to *Council* of *impounding*, keeping and releasing the item.
- 85.2 If an *Authorised Officer impounds* an item under this Local Law they must serve on the owner a *notice of seizure* that complies with Clause 85.6 as soon as possible after the item is *impounded*.
- 85.3 If the identity or whereabouts of the owner of an item *impounded* under this Local Law are unknown, the *Authorised Officer* must take reasonable steps to ascertain

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the owner's identity and/or whereabouts prior to exercising its powers under clause 85.5.

- 85.4 If an impounded item is not retrieved under clause 85.1.2 within the time specified in a *notice of seizure*, an *Authorised Officer* may take action to dispose of the *impounded* item according to the following principles:
- 85.4.1 where the item has no saleable value, it may be disposed of in the most economical way, or
- 85.4.2 where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in clause 85.4.1; or
- 85.4.3 where the owner has advised the **Council** in writing that the *Council* may dispose of the item because they do not intend to retrieve them, the *Council* may dispose of the item by the method identified in clauses 85.4.1 or 85.4.2.
- 85.5 *Council* is entitled to retain out of the proceeds of sale of any *impounded* item, its reasonable costs incurred in *impounding*, keeping and selling the item. If the proceeds of sale exceed the costs incurred in *impounding*, keeping and selling the item, the excess of the money must be returned to the owner of the item or dealt with in accordance with the *Unclaimed Money Act 2008*.
- 85.6 A *notice of seizure* served under this Clause must contain the following particulars:
- 85.6.1 the name and address of the owner of the *impounded* item, to the best of the *Authorised Officer's* knowledge at the time of seizure, and
- 85.6.2 the name and contact details of the *Authorised Officer* that *impounded* the item, and
- 85.6.3 a brief description of the item (or items) *impounded*, and
- 85.6.4 the time and location that the item was *impounded*, and
- 85.6.5 a brief description of the reason for *impounding* (including the Clause of the Local Law that was breached), and
- 85.6.6 the method of retrieving the item from *impound*, including any fees payable prior to recovery, and
- 85.6.7 date and time by which the item must be retrieved (which must not be less than 14 days from the date of the notice), and
- 85.6.8 instructions advising how the person may view the content of the Local Law; and
- 85.6.9 a statement to the effect of the consequences for failure to recover the item prior to the specified date.

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86. Impounding and disposing of animals

86.1 An **Authorised Officer**:

86.1.1 may **impound** an **animal** if the **Authorised Officer** has a reasonable belief that the **animal** is being kept in contravention of clause 45.1 of this Local Law, and

86.1.2 must release the **animal** to its owner on payment of a fee determined by **Council** in accordance with clause 92 of this Local Law, which does not exceed the reasonable costs to **Council** of impounding, care, transport and maintenance of the **animal**.

86.2 If an **Authorised Officer** **impounds** an **animal** under this Local Law, they must serve on the owner a **notice of seizure** that complies with Clause 85.6 as soon as possible after the animal is **impounded**.

86.3 If an impounded **animal** is not retrieved under clause 86.1.2 within the time specified in a **notice of seizure** an **authorised officer** may take action to destroy or dispose of the **animal**.

86.4 The **Council** may recover any reasonable cost incurred by the **Council** for the impounding, care, transport, maintenance and destruction/disposal of the **animal** for the whole, or any part, of the time from when the animal was seized until the time the animal was destroyed/disposed of under clause 86.3.

86.5 The **Council** may recover costs under clause 86.4 from the owner or person in apparent control of the animal when the animal was impounded.

87. Notices to comply

87.1 The **Council** or an **Authorised Officer** may, by serving a **notice to comply**, direct any owner, occupier or other person apparently in breach of any provision of this Local Law to perform any action, cease doing any action, or otherwise remedy the breach of the Local Law.

Explanatory note:

Clause 87.1.5 makes it an offence for a person to fail to comply with a **notice to comply**.

87.2 A **notice to comply** must state the time and date by which the thing must be remedied and must contain the particulars listed in Clause 87.4.

87.3 The time required by a **notice to comply** must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:

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- 87.3.1 the amount of work involved;
 - 87.3.2 the degree of difficulty;
 - 87.3.3 the availability of necessary materials or other necessary items;
 - 87.3.4 climatic conditions;
 - 87.3.5 the degree of risk or potential risk; and
 - 87.3.6 any other relevant matter.
- 87.4 A ***notice to comply***, served under this Local Law, must contain the following particulars:
- 87.4.1 the name of the person to whom the ***notice to comply*** is directed; and
 - 87.4.2 the last known address of the person that the ***notice to comply*** is directed to; and
 - 87.4.3 the address or particulars of the property that the ***notice to comply*** relates to; and
 - 87.4.4 the clause or clauses of the Local Law that are alleged to have been breached; and
 - 87.4.5 the date that the alleged breaches were observed; and
 - 87.4.6 clear instructions specifying what steps must be taken by the person to comply with the ***notice to comply***; and
 - 87.4.7 date and time by which the person must comply; and
 - 87.4.8 the name and contact details of the Authorised Officer who issued the ***notice to comply***; and
 - 87.4.9 instructions advising how the person may view the content of the Local Law; and
 - 87.4.10 a statement of further enforcement action that may be taken if there is a failure to comply with the notice, including a statement regarding potential maximum penalties that may apply; and
 - 87.4.11 a statement to the effect that 'If you do not understand this ***notice to comply***, or if you disagree with this notice, you should obtain legal advice immediately'.
- 87.5 If a person served with a ***notice to comply*** fails to carry out any work stipulated in a ***notice to comply***, in accordance with section 117 of the Act, Council may approve the carrying out of the work by another person, or carry out the work itself and recover the cost of performing the work from the person who failed to comply with the ***notice to comply***.

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88. Failure to comply with this Local Law, a permit or a notice to comply

- 88.1 A person is guilty of an offence if the person:
- 88.1.1 does something which a provision of this Local Law prohibits to be done;
or
 - 88.1.2 fails to do something which a provision of this Local Law requires to be done; or
 - 88.1.3 engages in an activity without a current *permit* where a provision of this Local Law prohibits a person from engaging in that activity without a *permit*, or
 - 88.1.4 breaches or fails to comply with a condition of a *permit* issued under this Local Law; or
 - 88.1.5 fails to comply with a *notice to comply* issued under this Local Law, including a failure to comply within the time specified in the *notice to comply*, or
 - 88.1.6 fails to comply with any *written direction* issued under this Local Law.
- Maximum penalty: 20 penalty units**
- 88.2 The maximum penalty that may be imposed for any offence against this Local Law is:
- 88.2.1 the amount specified under the provision found to have been breached, following the words 'Maximum penalty:', and
 - 88.2.2 in any other case, 20 penalty units.
- 88.3 Upon finding a person guilty of an offence against this Local Law, any Court may order a person (in addition to imposing a penalty):
- 88.3.1 to undertake any works, or to do any thing to rectify or remediate a contravention of any provision of this Local Law;
 - 88.3.2 to pay compensation to the Council for damage caused to assets vested in Council in breach of this Local Law;
 - 88.3.3 to pay compensation to the Council for the cost of any work undertaken by the Council under clause 87.5.

89. Discretionary powers

- 89.1 On becoming aware of a contravention of this Local Law an *Authorised Officer* may, on considering all of the circumstances known at the time, do any of the following:
- 89.1.1 take no action, or
 - 89.1.2 issue an *official warning*, or
 - 89.1.3 issue a *notice to comply* in accordance with clause 87, or

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- 89.1.4 issue an *infringement notice*, or
 - 89.1.5 commence court proceedings, or
 - 89.1.6 take any other action permitted by law.
- 89.2 An **Authorised Officer** who takes any action described in clause 89.1 may take any other action in respect of the same breach unless expressly prohibited by operation of law.

Explanatory note:

Official warning and infringement notice have the same meaning as in the *Infringements Act 2006*.

Offences against this Local Law are infringement offences, and the provisions of the *Infringements Act 2006* apply.

90. Power to act in urgent circumstances

- 90.1 An **Authorised Officer** may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without serving a *notice to comply* provided:
- 90.1.1 the **Authorised Officer** considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a *notice to comply*, may place a person, animal, property, asset or thing at risk or in danger; and
 - 90.1.2 details of the circumstances and remedying action are forwarded as soon as practicable to the person on whose behalf the action was taken.
- 90.2 The action taken by an **Authorised Officer** under clause 90.1 must not extend beyond what is necessary to cause the immediate abatement of (or to minimise) the risk or danger involved.

91. Infringement notices

- 91.1 Any offence against this Local Law is an *infringement offence* as defined by the *Infringements Act 2006*, and an **Authorised Officer** may issue an *infringement notice* for any offence under this Local Law.
- 91.2 The penalty fixed for an *infringement notice* issued under this Local Law in relation to clauses referred to in *Column 1 of Schedule 1*, is the amount specified in *Column 2 of Schedule 1*, and in every other case is 2 penalty units.
- 91.3 The provisions of the *Infringements Act 2006* apply to an *infringement notice* issued for an offence against this Local Law.

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Explanatory note:

The *Infringements Act 2006* sets out the procedure for:

- a) the internal review of the decision to issue *infringement notices*, and
- b) payment and applications of payment plans, and
- c) the enforcement of unpaid *infringement notices*.

VER 1.3.2

Part 10 Administration

92. Determining fees and charges

- 92.1 *Council* may from time to time, by resolution, determine the fees and charges to apply under this Local Law, which may include an administrative or processing fee or charge, and *Council* must give reasonable public notice of its resolution to determine or alter fees and charges.
- 92.2 In determining any fees and charges, *Council* may establish a system or structure of fees and charges, including a minimum or maximum fee or charge, if it considers it is appropriate to do so.
- 92.3 *Council* may waive, reduce or alter any fee, charge, bond, guarantee or payment applying under this Local Law, with or without conditions.

93. Delegation

- 93.1 Pursuant to section 78(c) of the Act, *Council* delegates all its powers, functions and duties under this Local Law to the person holding the position of Chief Executive Officer.
- 93.2 Pursuant to section 78(d) of the Act, *Council* authorises the person holding the position of Chief Executive Officer to delegate a power, function or duty referred to in clause 93.1 to the holder of an office or position as a member of *Council* staff.

94. Guidelines

94. The *Council* may from time to time, make guidelines for the purposes of this Local Law.

VER 1.3.2

Schedule 1 – Infringement notice penalties

| Column 1 Clauses creating offence | Column 2 Infringement notice penalty applicable |
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| Clause 15.16 (parked in a municipal reserve contrary to parking restrictions) | 1 Penalty unit |
| Clause 15.17 (parked in a municipal reserve) | 1 Penalty unit |
| Clause 15.18 (parked in a municipal reserve contrary to sign) | 1 Penalty unit |
| Clause 16.1 (ride or drive vehicle or horse in a municipal reserve, without a permit) | 1 Penalty unit |
| Clause 31.1.2 (non-permitted item in approved waste receptacle) | 0.5 penalty unit for a first offence 2 penalty units for any second or subsequent offence |
| Clause 31.2.2 (non-permitted item in approved recycling receptacle) | 0.5 penalty unit for a first offence 2 penalty units for any second or subsequent offence |
| Clause 31.3.2 (non-permitted item in approved green waste receptacle) | 0.5 penalty unit for a first offence 2 penalty units for any second or subsequent offence |
| Clause 51.2 (where the livestock are found wandering on a road) | 5 penalty units |
| Clause 59.1 (unsightly land and graffiti) | 2 penalty units |
| Clause 70 (Asset protection permits) | 8 penalty units |
| All offences in Part 7 (Requirements of building sites) | 5 penalty units |
| Any offence not referred to elsewhere in this table | 2 penalty units |

Community Impact Statement

Cardinia Shire Council Proposed Community Local Law 2024

This Community Impact Statement has been amended to reflect alterations proposed (and referred to as version 1.3.1 of the Proposed Community Local Law 2024).

PART A – General comments

Introduction

Council is proposing to make a new Local Law (called the Cardinia Shire Council Community Local Law 2024) to replace the existing Local Law No. 17 (Environment, Amenity and Asset Protection Local Law) adopted in 2015 (the **current Local Law**). The existing Local Law was amended in 2016 and again in 2022.

The proposed new Local Law (**proposed Local Law**) will supersede and replace the current Local Law. The proposed Local Law, to be known as the Cardinia Shire Council Community Local Law 2024 will commence on the 1st August 2024 (subject to its adoption by resolution of Council) or otherwise on the day following notice of its making being published in the Victoria Government Gazette and, unless it is revoked earlier, and will expire 10 years after commencement.

This Community Impact Statement has been prepared to inform the community about the proposed Local Law and to assist any member of the public who may wish to make a submission to Council during the public consultation process required under the Local Government Act 2020.

Background

Local Laws are a form of local regulation that enable councils to make legislative controls that reflect the different circumstances of each municipality. Victorian Councils have the broad power to make local laws under Section 71(1) of the Local Government Act 2020.

Local laws automatically ‘sunset’ (are revoked) ten years after their making, unless revoked sooner. The current local law sunsets on 14th June 2025. On commencement of the proposed local law, the current local law will be revoked.

The proposed local law will operate throughout Council’s municipal district. The Local Law makes provision for Council to make further Guidelines, which impact how the Local Law is applied.

The current Local Law regulates various activities and behaviour throughout the municipality and has been updated to reflect changes in legislation and current issues within the municipality. To date, extensive internal consultation has been undertaken including benchmarking, review of customer complaints and current challenges; assessment of enforcement actions, staff workshops, Councillor briefings and discussions with Victoria Police regarding some specific Local Laws that they enforce.

A statutory consultation period ran for a minimum of 28 days, in March 2024. The consultation was featured on the Creating Cardinia website.

At the Ordinary Council Meeting on 17th June 2024, Council resolved to further alter the proposed Local Law, and the altered Local Law was subject to a further consultation period.

The proposed Local Law has been reviewed by Council's lawyers who confirm that it complies with all regulatory requirements. A copy of the proposed Local Law is provided with this Community Impact Statement.

Objectives

The objectives of the proposed Local Law are set out in Clause 2 of the draft of the Local Law.

2. Objectives

2. The principal objectives of this Local Law are to:

- 2.1. provide for the peace order and good government of the Cardinia Shire Council, and
- 2.2. promote a physical and social environment free from hazards to health, in which the residents of the municipal district can enjoy a quality of life that meets the general expectations of the community, and
- 2.3. prevent and suppress nuisances which may adversely affect the enjoyment of life or the health, safety and welfare of persons, and
- 2.4. prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the quality of life and the environment, and
- 2.5. prohibit, regulate and control access to and behaviour in Municipal Places; and
- 2.6. prohibit, regulate and control the use of Municipal Recreation Centres, Municipal Buildings, and Municipal Reserves, and
- 2.7. protect public assets vested in Council from damage, accelerated deterioration or abuse during the building process or at other times, and
- 2.8. provide a physical environment which aims to minimize hazards to health and safety of persons attending building sites and those adjacent, opposite or passing building sites, and
- 2.9. prohibit, regulate and control the presence of and disposal of builders' refuse, rubbish and soil on and from building sites within the municipal district, particularly litter and stormwater pollution to protect receiving waterways and bays, and
- 2.10. define the standards to which persons engaged in building work should adhere, and
- 2.11. educate and induce persons involved in building work to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community, and
- 2.12. provide for the consistent application and enforcement of this Local Law.

PART B – Comments on proposed Local Law overall

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| <p>Measures of success of proposed Local Law</p> | <p>The overall success of the proposed local law will be best measured by the extent to which it achieves the desired outcomes and leads to:</p> <ol style="list-style-type: none"> 1. An improvement in Council's service ratings relating to liveability and community amenity; 2. An improvement in Council's service ratings relating to the handling or complaints about amenity; 3. A reduction in the number of complaints about amenity being received annually (adjusted for population growth); 4. A reduction in the number of local law breaches detected annually (adjusted for population growth); 5. A reduction in the number of items impounded by Authorised Officers (adjusted for population growth). 6. A reduction in the number of abandoned shopping trolleys found in streets, parks and reserves. 7. An increase in the number of permits for use of public spaces that support the strategic directions of Council. |
| <p>Existing legislation that might be used instead</p> | <p>In preparing the proposed local law, care was taken to ensure that no clauses are included that relate to matters addressed under existing State or Federal legislation.</p> |
| <p>Overlap of existing legislation</p> | <p>It is believed that the proposed local law supplements State legislation without duplicating, overlapping or creating any inconsistencies. In two instances, clauses have been removed from the Local Law, as it is considered preferable to achieve the same outcome by using an alternative statutory power.</p> |
| <p>Overlap of planning scheme</p> | <p>The proposed Local Law does not overlap with the Cardinia Shire Planning Scheme. Several clauses have been re-drafted to reflect changes to the Planning Scheme.</p> |
| <p>Risk assessment</p> | <p>Council does not believe there are any significant risks associated with the proposed local law. In reaching this view, Council considered the absence of such a local law and the lack of controls Council would have over its assets and the environment, as a consequence</p> |
| <p>Legislative approach adopted</p> | <p>The proposed Local Law seeks to place the minimum imposition on the community whilst managing known risks. This is evidenced by:</p> <ul style="list-style-type: none"> • Reasonable penalties (infringement penalties have been benchmarked with neighbouring and like Councils); • Minimum possible new offences created. <p>Council has, where appropriate and possible, adopted a performance based approach to the proposed local law, which focuses on the outcomes sought rather than the methodology to be</p> |

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| | <p>applied.</p> <p>All provisions of the proposed Local Law are open to public scrutiny and comment.</p> |
| Restriction of competition | <p>The proposed local law has been reviewed against National Competition Policy principles and is considered to be consistent with these.</p> |
| Penalties | <p>All offences created under the proposed Local Law attract a maximum penalty of 20 penalty units with varying infringement penalties prescribed in Schedule 1 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. 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> |
| Permits | <p>The proposed local law makes provision for the issue of permits. The proposed local law requires permits to be obtained for various activities. For some permits, Council may (or may in the future) apply conditions, apply fees or create guidelines for the issuing of permits.</p> |
| Fees | <p>The proposed local law provides for Council to determine fees and charges that will apply at any time. These fees and charges are set through the Council's Council Plan and Budget processes and are subject to separate community consultation. In the future, the methodology for fee calculation may be outlined in a Guideline document.</p> |
| Comparison with neighbouring and like Councils | <p>In drafting the proposed Local Law, Council examined Local Laws from a number of like and neighbouring councils to assess similarities and differences and ensure a reasonable degree of consistency in content, approach and penalties. This review included current local laws of:</p> <p>Banyule, Bayside, Brimbank, Casey, City of Melbourne, Greater Dandenong, Frankston, Glen Eira, Kingston, Knox, Manningham, Maroondah, Monash, Stonnington, Whitehorse and City of Yarra.</p> |
| Charter of Human Rights | <p>The Charter of Human Rights and Responsibilities Act 2006 contains twenty basic rights that promote and protect the values of freedom, respect, equality and dignity. The implications of the proposed local law have been assessed by Council's external legal adviser as compatible with the requirements of the Charter.</p> <p>To the extent that any provisions engage human rights, the limitations imposed are demonstrably justifiable, such that no incompatibility arises.</p> |
| Consultation | <p>During the preparation of the proposed Local Law, there were</p> |

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| | <p>various opportunities for formal and informal consultation.</p> <p>Informal consultation has occurred since Local Law 17 was adopted, and ranges from ad hoc information and opinions expressed by the public about the operation of the law (which is documented by Council officers). In respect of real estate pointer boards, Council officers have liaised with the industry on-and-off since 2000 regarding the proposed approach. These conversations and surveys have, in part, informed the initial proposal recommended by Council officers.</p> <p>Formal consultation occurred in March 2024, in accordance with the Council community engagement policy (as required by Section 73 (2) of the Local Government Act 2020). This engagement included a hosted engagement page on Creating Cardinia, and direct contact with various cohorts of affected businesses. Submissions received during this phase of engagement directly informed alterations that were proposed by Council at the June 2024 meeting.</p> <p>The alterations that were proposed at the June 2024 meeting triggered a requirement for further consultation, which occurred after the June meeting, for 14 days. This included further public notices (for low impact changes) and directed contact with real estate agents, specifically inviting comment regarding the “Pointer board” proposed changes.</p> |
| <p>Submissions</p> | <p>During the formal engagement phases described above, Council invited submissions regarding the proposed (and subsequently altered) Community Local Law.</p> <p>Copies of all submissions (without personal identifiers) were tabled at the June 2024 and July 2024 Ordinary Council meeting.</p> |

Part C – Comments on specific parts or provisions of the proposed Local Law

All provisions of the current Local Law have been reviewed. The proposed Local Law 2024 proposes the following:

- amendments to existing definitions
- insertion of new definitions
- amendments to existing clauses;
- insertion of new clauses;
- penalty amounts amended following the introduction of the Local Government Act 2020; and
- ‘administration only’ changes

Changes described as having a “moderate” or “significant impact” are discussed in further detail.

A full table of changes is can be found in the “Community Local Law 2024 Clause comparison table – table of changes”.

| Clause number | Clause heading | Impact of change | Description of change, and the reason for the proposed change |
|---------------|------------------------------|------------------|--|
| 11 | Behavior in Municipal Places | Minor | The existing Local Law currently has a number of sub-clauses directed at regulating behavior in municipal buildings and reserves. The proposed Local Law will remove a clause that refers to entering bathrooms and change rooms ‘of the opposite gender’. The re-drafted Clause 11 will include sufficient clauses to continue to criminalize anti-social behavior that is offensive, indecent, endangering, threatening or otherwise interferes with the use and enjoyment of the municipal place. |
| 12 | Access to | Moderate | The existing Local Law currently gives Council a range of powers in respect of public places, including the |

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| | municipal places | | capacity to determine hours of access, conditions and cost or access, and conditions of hire to access. The proposed Local Law clarifies the obligation to comply with conditions or restrictions when accessing a municipal place. |
| 18 | Shopping trolleys | Moderate | Council wishes to reduce the period of time that abandoned trolleys remain in public places. The existing Local Law includes a requirement on businesses that provide shopping trolleys (typically supermarkets) to take steps to minimize the likelihood that trolleys will be removed from the vicinity and abandoned, usually in public places. In addition to the current requirement to provide a locking system, the new clause creates a positive obligation on the owner of the trolley to collect the trolley, after being notified that a trolley of theirs has been dumped. |
| 21 | Hoon events | Significant | Victoria Police have advised Councils of issues arising from anti-social gatherings involving hoon driving. Specifically, the issue is of 'pop up' events, where large groups gather to watch hoon driving. The drivers themselves can be penalized under the <i>Road Safety Road Rules</i> , but the introduced clause is intended to provide Police with powers that deter those who have gathered to watch, and is modelled on clauses operating in other municipalities. It is not expected that Council officers will enforce this law, but enforced by Victoria Police officers authorised under the Local Law. The primary objective of this clause is to deter the conduct, by allowing Victoria Police to efficiently interrupt behavior, when it occurs in the Municipal district. |
| 23 | Signs, goods and furniture | Significant | This clause has been amended with the intention of reducing the use of pointer boards in the municipality, by limiting the circumstances in which they can be used. |

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| | | | <p>Under the current approach, Real estate agents may obtain a permit to display pointer boards to real estate events, and the permits provide broad permission to place boards. Some agents do not obtain permits prior to displaying signs, and from time to time, real estate agents report that pointer boards are being used unnecessarily. By doing this, agents obtain commercial advantage, using the boards as a broad service advertising, rather than to provide directional signage to inspection or auction events.</p> <p>Under the revised clause (and supporting policy), Council would no longer issue permits for pointer boards, but agents would be free to display pointer boards:</p> <ul style="list-style-type: none"> - Immediately in front of “open for inspection” or “auction” events, and - At the nearest intersection only, and - Only for the period of the event, and between 8.30am and 5pm on the event. <p>The objective of this proposed clause and policy is to limit the use of pointer boards within the municipality, and to reduce the requirement on real estate agents to obtain and maintain permits. It will, in turn, increase the effectiveness and efficiency of enforcement activities.</p> <p>NOTE: The first Proposed Community Local Law (version 1.0) proposed a clause that limited the display of pointer board signs to 1hr either side of the event. This was altered, by resolution of Council on 17th June 2024, and subject to further consultation.</p> |
| Part 4 | Domestic waste collection, | Significant | The existing clauses relating to waste services were last drafted in 2005, and require change in order to reflect current waste service requirements. |

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| | <p>and recycleable materials</p> | | <p>The current Local Law contains a number of clauses about the use of domestic waste and recycling collection. It also contains clauses relating to the use of hard waste collections.</p> <p>Since the current Local Law were first written, the waste service has expanded to include “green waste”. Similarly, the hard waste service has changed from a scheduled service, to a bookable service, and as such the previous clauses that specified when waste could be placed in the road reserve require modification.</p> <p>As such, the clauses have been amended, and provide for a more flexible application in the future, with appropriately drafted Council guidelines.</p> <p>Along with other clauses, the revised clauses require residents to only use their waste service for types of waste approved for the service. E-waste is an example of dangerous items that are not allowed to be placed in waste bins, but which are frequently disposed of and can cause bin and truck fires. Similarly, sometimes land owners deliberately place contaminating, non-recyclable materials in the recycling bin service, which diminishes the overall effectiveness of re-using materials. The capacity to issue infringements would be used sparingly, and would be directed at serious examples where dangerous or contaminating items are placed in bins which result in:</p> <ul style="list-style-type: none"> • serious contamination of the waste stream, or • dangerous situations, or • repeated infractions. <p>Council officers will continue to “educate first”, and it is not expected that minor errors in waste separation would be penalized in the first instance.</p> |
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| | | | The primary objective of these clauses is to ensure that the waste service can operate effectively and efficiently, and for the clauses to deter wrongdoing where education has failed to achieve voluntary compliance. |
| 34 | Trade waste hoppers | Moderate | <p>Trade waste hoppers are large bins used for commercial premises. When they are not maintained they can become a haven for vermin, cause odour issues, and attract anti-social behaviour, such as dumping. Emptying bins can also be a common source of nuisance noise complaints, especially when it occurs early in the morning or in the evening.</p> <p>A new clause has been proposed that makes explicit the requirement for a commercial entity to have adequate, nuisance-free commercial waste removal, that is in good operating order, and placed in a safe location. The clause also establishes times when collections are prohibited, to minimize the impact of noise on near-by residents.</p> |
| 35 | Screening of bins or trade waste hoppers | Moderate | A new clause has been proposed that allows Council to direct that bins and trade waste be screened from public view where the waste is unsightly, dangerous or detrimental to the amenity of the neighborhood, when directed by a Council officer. |
| 44 - 50 | <i>Animal-related clauses</i> | Moderate | In the current Local Law 17, animal-related clauses are drafted to apply to specific species of animal. It is the experience of Council officers that many species of animal can be the source of amenity complaints. As such, the clauses have been generalized to apply to animals. For example, previous clauses that required adequate fencing for male livestock, have been consolidate to apply more generally to all animals, irrespective of species. |

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| 55 | Noisy vehicles | Significant | <p>A new clause has been proposed that addresses noisy vehicle use that causes an "unreasonable noise" in residential areas. Such "unreasonable noise" may include prolonged and unnecessary idling of heavy vehicles in early morning or late at night, or the excessive revving of engines while undertaking vehicle servicing. The prohibition would apply even when the vehicle is on a road or nature strip.</p> <p>Without the proposed clause, a vehicle owner may be prohibited from making vehicle noise on <i>private property</i> (under general noise nuisance provisions) but would not necessarily be liable if the noise does not <i>emanate from their land</i> (for example, if the vehicle is parked in the street or on a nature strip). The proposed clause closes this loophole.</p> |
| 56 | Audible intruder alarms | Significant | <p>Alarms that activate unnecessarily, or are not deactivated after a reasonable period, can cause a significant noise nuisance – however, modern alarms are capable of being configured so as to ensure that the alarm does not continue to sound after 5 minutes, and not to be re-triggered unnecessarily.</p> <p>A new clause has been proposed that prohibits audible alarms to operate persistently within turning off. While it may be said that existing general noise nuisance laws already cover this situation, the ease with which technical solutions can be harnessed to prevent this form of nuisance, mean that it is considered appropriate to have a dedicated provision directed at alarms.</p> |
| 59 | Unsightly land and graffiti | Significant | <p>The current Local Law requires the owner and occupier of land to not allow the land to be “unsightly”. In light of Council experience, the proposed Local Law clause has been re-drafted to make it clear that “unsightliness” includes allowing a building to become dilapidated or ruin, by neglect, age, poor maintenance etc.</p> <p>Council is also aware that buildings and land can often be left while the owner waits for commercial development – in such circumstances, the local law penalties that apply are sometimes not sufficient to deter</p> |

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| | | | <p>owners from remedying the situation.</p> <p>In light of this, the clause has been redrafted, and the penalty provisions have been expanded to include penalties of up to \$380 each day after a finding of guilt, if they continue to allow the unsightliness to persist.</p> |
| 70 & 71 | Asset Protection Permits and Identifying damage to Council assets | Significant | <p>Most local laws have clauses that are designed to protect Council assets (such as footpaths, curbs, nature strips etc) during building work. In a growth area such as Cardinia, this is particularly important, as roads, footpaths and nature strips are often initially created during development, and there is intense construction work as blocks are released.</p> <p>Under the current Local Law, builders are required to obtain an asset protection permit, and are required to provide Council with a bond, prior to the construction work. They are required to advise Council of pre-existing damage and advise Council upon completion of the work.</p> <p>Under the proposed Local Law, these clauses have been substantially re-written to provide for the more efficient and effective protection of Council assets. The clauses make the requirements of builders more strict, by strengthening the obligation to document the state of assets prior to the build, and also to notify Council swiftly when the build is completed. Both of these amendments will improve the capacity of Council and the builders to identify damage for which they are (and are not) responsible.</p> <p>The infringement penalties for failing to obtain an Asset Protection Permit are proposed to increase significantly, to 8 penalty units (approx. \$1530) to adequately deter builders who refuse to obtain permits. The current infringement penalty (\$200) is lower than the cost of obtaining a permit, and substantially lower than the relevant bonds. As such, we have extensively benchmarked infringement penalties for this offence across</p> |

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| | | | the South Eastern metro area, and propose a significant increase to the infringement amount, to 8 penalty units (approx \$1530). |
| Part 7 | Requirements of Building sites | Significant | <p>The current local law provides for infringements to be issued for a variety of offences directed at ensuring that building sites are managed in a way that minimizes refuse, stormwater contamination, and other amenity impacts. Under the current Local Law, infringement penalties are set at \$200, and it is the experience of Compliance Services Officers that many larger building companies are responsible for repeated offences. A review of similar penalties across the South East metro area shows that the penalties at Cardinia are generally low, and we therefore propose to increase the infringement amount to 5 penalty units per offence (approx. \$960).</p> <p>The objective of this change is to reduce the of building site amenity offences, by deterring the building companies from committing the offences, and to encourage them to take a more active role in ensuring trades behave correctly on site.</p> |
| 79 | Building site work hours | Significant | <p>Building and construction noise is a common source of amenity complaint, particularly in connection with noise. The EPA construction noise provisions explicitly respond to this, however other sources of noise (that perhaps do not meet the definition of construction work) can also arise. For example, deliveries to building sites, vehicle movements, persons present on site etc.</p> <p>As such, the proposed Local Law contains a provision that applies the time-based prohibition more broadly than just construction noise, and is modelled on provisions operating in other municipalities.</p> <p>NOTE: The first Proposed Community Local Law (version 1.0) contained a drafting error in respect of the hours. This was altered, by resolution of Council on 17th June 2024, and subject to further consultation.</p> |

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| <p>Clause 45 of current Local Law 17</p> | <p>Dogs must be on leash</p> | <p>Removed from Proposed Local Law Minor, technical only</p> | <p>The current Local Law contains a clause that requires all dogs to be on leash when they are off the premises where they are usually kept. Council has also made an order, pursuant to the power conferred in Section 26 of the Domestic Animals Act, to make allowance for several designated “off leash parks” in the municipality.</p> <p>With the re-drafting of the Local Law, it is proposed to removed the clauses from the Local Law, and re-instate them in a new Domestic Animals Act Council order. This order will replicate the requirement to leash dogs when they are outside of the property where they are kept, but allow for off leash parks (subject to the advertised conditions of using the parks).</p> <p>This is a technical change only – it is not intended to introduce any new obligations of dog owners that do not currently exist.</p> |
| <p>Clause 46 of current Local Law 17</p> | <p>Cats to be desexed</p> | <p>Removed from proposed Local Law Minor, technical only</p> | <p>Cardinia Shire Council has had long-standing policy that cats must be desexed in order to be registered and kept in the municipality. There are a number of exceptions to this, such as when the owner can satisfy that they are a member of an applicable organization etc.</p> <p>This policy is given effect by a Council resolution made pursuant to Section 10A of the Domestic Animals Act. Clause 46 of the current Local Law 17 duplicates this requirement. Technically, this duplication is unnecessary, and it is preferable to remove the clause from the new Local Law.</p> <p>It should be noted that the current Local Law specifies that cats must be desexed once they are 6 months old. This was because many vets used to recommend that cats not be desexed until this age. However, the RSPCA and peak veterinary bodies now support the practice of desexing cats as early as 3 months, which co-incides with the age at which a cat must be registered.</p> |

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| | | | Therefore, it is proposed to remove the unnecessary clause from the Local Law, and for Council to make a new resolution maintaining the policy of requiring cats to be desexed. |
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2024
Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

This table is intended to highlight the changes between Local Law 17 and the proposed Cardinia Shire Council Community Local Law 2024 (Version 1.3). The order and structure of the existing law has been preserved, but clause numbering has altered, due to the redrafting. The following definitions are used to describe the impact of the proposed changes. For more information about the reasons underlying proposed changes, please refer to the accompanying Community Impact Statement.

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| Significant | "Significant change" is used to identify clauses that are substantially revised, or significantly change the obligation on the duty holder. Significant change is also used to identify where the infringement penalties is proposed to increase. |
| Moderate | "Moderate change" means that the proposed clause in the new Local Law will create or change an obligation on a person or business, but the new obligation is consistent with common behaviour already observed, and imposes minimal burden on the effected entity. |
| Minor | "Technical amendments only" means that the text has been changed as a result of legal advice to strengthen the effectiveness of the clause, but does not otherwise change the effect of the clause. |
| No change | "No change" indicates that the text of the clause is identical to the existing Local Law (except for clause numbering). No change is also used to denote clauses that have been edited, but the change has no impact on the effect of the clause - this typically occurs where dates, Act names or government entities have changed since Local Law 17 was made, or where grammatic, punctuation or spelling has been amended without changing the meaning of the text. |
| Removed | "Removed" is used to identify clauses that are proposed for removal from the Local Law. In respect of LL17 Clause 45 and 46 this is recommended on the basis that it is preferable that these obligations be created made by seperate Council resolution and order, pursuant to the power set out in the Domestic Animals Act, rather than the Local Law-making power in the Local Government Act. These resolutions will be proposed for simultaneous consideration if Council resolves to make the proposed Local Law. In one case, the removed clause has been superceded by the Environment Protection Act 2017. |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| Part | Clause number (current) Local Law 17 | Clause number (proposed) Community Local Law 2024 | Title of clause | Impact of proposed change | Commentary |
|--|--------------------------------------|---|---|-----------------------------------|--|
| 1 INTRODUCTIONS AND DEFINITIONS | | | | | |
| | 1 | 1 | Title | No change | |
| | 2 | 2 | Objectives | No change | |
| | 3 | 3 | the power to make this Local Law | No change | |
| | 4 | 4 | Commencement | No change | |
| | 5 | 5 | Revocation | No change | |
| | 6 | 6 | Cessation | No change | |
| | 7 | 7 | Application | No change | |
| | 8 | 8 | Exemptions from this Local Law | No change | |
| | 9 | 9 | Incorporated documents, codes and polices | Minor - technical amendments only | |
| | 10 | 10 | Definitions | Moderate | New/amended definitions of terms support other changes in the clauses of the proposed Local Law. The definitions themselves have minimal impact. |
| 2 MUNICIPAL PLACES, RECREATION CENTRES AND RESERVES | | | | | |
| | 11 | 11 | Behaviour in municipal places | Minor | Removal of unnecessary clause that relies on proof of gender. Other clauses adequately address anti-social visitor behaviour. |
| | 12 | 12 | Access to municipal places | Moderate | Clarification of obligation to not enter or remain in a municipal place contrary to conditions of entry or restrictions determined by Council. |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

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| 13 | 13 | Behaviour in municipal buildings | No change |
| 14 | 14 | Municipal recreation centres | Minor - technical amendments only |
| 15 | 15 | Activities prohibited in a municipal reserves | Minor - technical amendments only |
| 16 | 16 | Activities which may be permitted in municipal reserved | Minor - technical amendments only |

3 BEHAVIOUR ON ROADS AND PUBLIC PLACES

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| 17 | 17 | Toy vehicles | Minor - technical amendments only | |
| 18 | 18 | Shopping trolleys | Moderate change | New clause creates obligation for the owner of shopping trolleys (typically supermarkets) to collect abandoned trolleys upon being notified of a dumped trolley belonging to them. |
| 19 | 19 | Charitable collections | Minor - technical amendments only | |
| 20 | 20 | Open air performances and busking | Minor - technical amendments only | |
| N/A | 21 | Hoon events | Significant change | New clause that creates an offence to participate in, encourage or attend a hoon event. It also creates an offence to park a motor vehicle in close proximity to a hoon event, without a lawful excuse. |
| 21 | 22 | Consumption or possession and busking | Minor - technical amendments only | |

2024
Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|----|----|--------------------------------|-----------------------------------|---|
| 22 | 23 | Signs, goods and furniture | Significant change | New clauses change the treatment of Real Estate pointer boards, limiting their use and removing the requirement for a permit (subject to compliance with requirements). In the initial Proposed Community Local Law, signs would be permissible for 1 hr either side of the relevant real estate event. In Version 1.3, this has been amended to allow signs to be placed between 8.30am and 5pm on the day of the real estate event. |
| 23 | 24 | Bunting | No change | |
| 24 | 25 | Persons selling goods | No change | |
| 25 | 26 | Aerosol spray paint containers | No change | |
| 26 | 27 | Clothing recycle bins | No change | |
| 27 | 28 | Repair and display of vehicles | Minor - technical amendments only | |
| 28 | 29 | Abandoned vehicles | Minor - technical amendments only | |
| 29 | 30 | Heavy or long vehicles | Minor - technical amendments only | |

2024
Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| 4 WASTE DISPOSAL | | | | |
|-------------------------|----|--|--------------------|---|
| 30 | 31 | Domestic waste collection, and recycleable materials | Significant change | All previous clauses have been reviewed and amended, to reflect the current service. The effect of the section is that: persons supplied with bins by Council must comply with the Council guidelines relating to waste services. The clauses are reworded to make household waste, green waste and recycled waste collection streams clear, and introduces an infringeable offence for placing prohibited materials in a bin that are not permitted. Educational activities and approaches will not be effected. |
| N/A | 32 | Hard Rubbish | Minor | This clause is updated to reflect the "bookable" hard waste service and guidelines. The obligations arer equivalent to the previous hard waste rules. |
| N/A | 33 | Interference with waste | moderate | New clause that prohibits interference with waste placed out for collection, except with Council's consent. |
| N/A | 34 | Trade waste hoppers | moderate | New clause that makes explicit the requirement for a commercial entity to have adequate, nuisance-free commercial waste removal, and established noise-based times when collections are prohibited. |
| N/A | 35 | Screening of bins or trade waste hoppers | Moderate | New clause which allows Council to direct that bins and trade waste be screened from public view where the waste is unsightly, dangerous or detrimental to the amenity of the neighbourhood. |
| 31 | 36 | Transportation of waste | No change | |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|--------------------------------------|-----|--|-----------------------------------|--|
| 32 | 37 | Use of municipal landfill and transfer station | No change | |
| 33 | 38 | Dumping of refrigerators, trunks or similar containers | No change | |
| 5 LAND USE AND AMENITY ISSUES | | | | |
| 34 | 39 | Numbering of allotments | No change | |
| 35 | 40 | Obstruction to visibility | No change | |
| 36 | 41 | Overhanging and encroaching vegetation | No change | |
| 37 | 42 | Obstructions to roads, footpaths and road reserves | No change | |
| 38 | 43 | Camping | Minor - technical amendments only | This clause has been amended to reflect recent amendments to the Cardinia Shire Planning Scheme. |
| 39 | 44 | Caravans, moveable and temporary dwellings | No change | |
| 40 | 45 | Keeping animals, birds and livestock | Minor - technical amendments only | |
| 41 | 46 | Keeping animals must not cause a nuisance | No change | |
| 42 | 47 | Animal buildings and cleanliness | No change | |
| 43 | 48 | Animal noise | Minor - technical amendments only | |
| 44 | 49 | Animal waste | Minor | Expanded from dogs only, to other animals. |
| 45 | N/A | Dogs to be on leads | removed | The clause is proposed to be removed from the Local Law, and re-enacted as an Order of Council made pursuant to Section 26 of the Domestic Animals Act. The terms and obligations of this order will be equivalent to the current Local Law. |

2024
Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|--|-----|---|-----------------------------------|---|
| 46 | N/A | Cats to be desexed | removed | The clause is proposed to be removed from the Local Law, and re-enacted as a resolution of Council made pursuant to Section 10A of the Domestic Animals Act. The terms of the resolution will lower the age of required desexing to 3 months, in line with peak veterinary and RSPCA advise. |
| N/A | 50 | Adequate animal fencing | Minor - technical amendments only | This clause is reworded to require all kept animals to be adequately fenced to prevent the escape of animals from their land. |
| 47 | 51 | Livestock on roads | Minor - technical amendments only | |
| 48 | 52 | Defence to charge of Livestock on roads | Minor - technical amendments only | |
| 49 | 53 | Use of recreational vehicles | Minor - technical amendments only | |
| 50 | 54 | Noise | No change | |
| N/A | 55 | Noisy vehicles | Significant change | New clause that specifically addresses noisy vehicle use that is an "unreasonable noise" in residential areas. Such "unreasonable noise" may include prolonged and unnecessary idling of heavy vehicles in early morning or late at night, or the excessive revving of engines while undertaking vehicle servicing. |
| N/A | 56 | Audible intruder alarms | Significant change | New clause that prohibits audible alarms from operating persistently without turning off. |
| 51 | 57 | Fireworks | No change | |
| <i>Clause 52 & 53 of Local Law 17 were revoked in 2018</i> | | | | |
| 54 | 58 | Fire prevention and fire hazards | Minor - technical amendments only | |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|----|-----|------------------------------|-----------------------------------|---|
| 55 | 59 | Unightly land and graffiti | Significant change | The clause has been extended to include explicit reference to dilapidated buildings, and to provide for penalties to potentially be applied for each day after a finding of guilt where an offence continues. |
| 56 | 60 | Shipping containers | No change | |
| 57 | 61 | Dangerous land | Minor - technical amendments only | |
| 58 | 62 | Weeds and pest animals | No change | |
| 59 | 63 | Interference with vegetation | Minor - technical amendments only | |
| 60 | N/A | Septic tank connection | removed | This clause has been superceded by amendments to the Environmental Protection Act 2017 |

6 PROTECTION AND MANAGEMENT OF COUNCIL ASSETS AND INFRASTRUCTURE

| | | | | |
|----|----|-------------------------------|-----------------------------------|--|
| 61 | 64 | Maintanance of drains | Minor | New clause to clarify obligation of land owners with groundwater pumps to maintain them to Council satsifaction, upon request |
| 62 | 65 | Protection of drains | No change | |
| 63 | 66 | Protection of roads | Minor - technical amendments only | |
| 64 | 67 | Protection of assets and land | Minor - technical amendments only | |
| 65 | 68 | Vehicle crossings | Minor - technical amendments only | |
| 66 | 69 | Spoil on roads | Minor | This clause has been broadened in definition to apply to any vehicle or equipment used in a trade, industry or commercial undertaking. |

2024
Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|----|----|--------------------------------------|--------------------|--|
| 67 | 70 | Asset protection permits | Significant change | These clauses have been substantially re-written to provide for the more efficient and effective protection of Council assets. The clauses make the requirements of builders more strict, by strengthening the obligation to document the state of assets prior to the build, and also to notify Council swiftly when the build is completed. Both of these amendments will improve the capacity of Council and the builders to identify damage for which they are (and are not) responsible. The infringement penalties for failing to obtain an Asset Protection Permit are proposed to increase significantly, to 8 penalty units (approx \$1530) to adequately deter builders from refusing to obtain permits. |
| 68 | 71 | Identifying damage to Council assets | Moderate change | These clauses have been re-drafted to make the process of identifying and requiring repairs to be swifter and more efficient. The redrafting also makes the Notice to Comply process consistent with other notices issued under the Local Law. |

7 REQUIREMENTS OF BUILDING SITES

| | | | | |
|----|----|-----------------------|--------------------|---|
| 69 | 72 | Stormwater protection | Significant change | All building site amenity infringement penalty amounts are proposed to increase to 5 penalty units (approx \$960) |
| 70 | 73 | Containment of refuse | Significant change | <i>as per the comment above</i> |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|-----|----|---------------------------------------|--------------------|---|
| 71 | 74 | Disposal of builders' refuse | Significant change | <i>as per the comment above</i> |
| 72 | 75 | Removal of builders' refuse | Significant change | <i>as per the comment above</i> |
| 73 | 76 | Building site fencing | Significant change | <i>as per the comment above</i> |
| 74 | 77 | Sanitary facilities on building sites | Significant change | <i>as per the comment above</i> |
| 75 | 78 | Identification of building sites | Significant change | <i>as per the comment above</i> |
| N/A | 79 | Building site work hours | Significant change | This clause introduces building site work hours outside of which work requires a permit. These hours are intended to be consistent with the existing EPA construction noise provisions, but apply more broadly than just the generate of noise. Note: The clause included in the Proposed Local Law 2024 in February 2024, contained an error, which has been rectified in version 1.3. |

8 COUNCIL MAY ISSUE PERMITS

| | | | |
|----|----|--------------------------------------|-----------------------------------|
| 76 | 80 | Council may issue permits | Minor - technical amendments only |
| 77 | 81 | Considering applications for permits | Minor - technical amendments only |
| 78 | 82 | Correction of permit | No change |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| | | | | |
|-------------------------------------|----|---|-----------------------------------|---|
| 79 | 83 | Grounds for cancellation of or amendment of permits | Minor - technical amendments only | |
| 9 ENFORCING THESE LOCAL LAWS | | | | |
| 80 | 84 | Service of documents | No change | |
| 81 | 85 | Impounding and disposal of items | Minor - technical amendments only | |
| N/A | 86 | Impounding and disposal of animals | Minor - technical amendments only | This clause is new, but has been added for clarity only. The power to impound animals already existed in Local Law 17, but it is considered preferable to have a specific clause that relates to animals. |
| 82 | 87 | Notices to comply | Minor - technical amendments only | |
| 83 | 88 | Failure to comply with this Local Law, a permit or a notice to comply | Minor - technical amendments only | |
| 84 | 89 | Discretionary powers | Minor - technical amendments only | |
| 85 | 90 | Power to act in urgent circumstances | Minor - technical amendments only | |
| 86 | 91 | Infringement notices | Minor - technical amendments only | |
| 10 Administration | | | | |
| N/A | 92 | Determining fees and charges | Minor - technical amendments only | |
| N/A | 93 | Delegation | Minor - technical amendments only | |
| N/A | 94 | Guidelines | Minor - technical amendments only | |

Table of proposed changes

Comparing existing Local Law 17 with proposed Community Local Law 2024 (version 1.3)

| Schedules | | | | |
|------------------|---|-------------------------------|--------------------|--|
| 1 | 1 | Infringement Notice penalties | Significant change | All changes to infringement penalty units are described in this schedule, and specified above. |