

2023

Local Law No. 2 Community Local Law



Mildura Rural City Council

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PART 1 PRELIMINARY

1.1 Title

This is Local Law No. 2 – Community Local Law.

1.2 Objectives

The purposes of this Local Law are to:-

- (1) provide for the peace, order and good government of the Municipal District;
- (2) provide a safe and healthy environment, in which the residents of the Municipal District enjoy a quality of life that meets the general expectations of the community;
- (3) control and regulate emissions to the air in order to improve the amenity, environment and quality of life in the Municipal District;
- (4) ensure that the public can properly use and enjoy Public Reserves by regulating activities and behaviour in Public Reserves;
- (5) control the consumption of alcohol in designated areas within the Municipal District;
- (6) control the different uses to which Streets, Roads, Footpaths and Council Land can be put so as to ensure that there is a proper balance between private uses and the need to maintain freedom of movement for the public;
- (7) manage, regulate and control the keeping of animals and birds; and
- (8) embrace best practice local law making principles of accessibility, accountability, compliance, consistency, currency, efficiency, enforceability, necessity and transparency.

1.3 Operation Date

This Local Law operates from the day following its making.

1.4 Revocation Date

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

1.5 Revocation of Existing Local Laws

Mildura Rural City Council Community Local Law No. 2 (2017) is revoked on the date on which this Local Law comes into operation.

1.6 Application

This Local Law applies throughout the Municipal District.

1.7 Authorising Provisions

The Council's authority to make this Local Law is contained in section 71 of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994*.

1.8 Scope of this Local Law

- (1) This Local Law applies to the whole of the Municipal District, except where it is apparent from its wording that a clause or provision applies to a specific area.
- (2) Where this Local Law applies to a Road, it applies to all parts of the Road, unless expressly stated otherwise.
- (3) The provisions of this Local Law apply to the extent that they are not inconsistent with any Act or Regulation applicable to the Council or its Municipal District.
- (4) Where this Local Law prohibits any act, matter or thing or provides that such act, matter or thing can only be done or exist with a Permit, that prohibition or provision will not apply if the act, matter or thing can be done or can exist by reason of an express permission in the Planning Scheme.
- (5) References to any land in this Local Law include buildings and other structures permanently affixed to the land and any land covered with water and any structures over any water affixed to the land or to the land covered with water.

1.9 Definitions

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

Act	means the <i>Local Government Act 2020</i> .
Advertising sign	includes any board, notice, structure, banner or other similar device used for the purpose of soliciting sales or services or promoting a brand or person or notifying people of the presence of an adjacent property, organisation, business or event or directing people to a place, whether real, internet-based or electronic, where goods or services may be obtained.
Alcohol	means a beverage or other prescribed substance intended for human consumption with an alcohol content greater than 0.5% by volume at a temperature of 20 degrees Celsius.
Alcohol Free Area	Means an area of, or in, the Municipal District, which has been declared by the Council as an “alcohol free” area and has appropriate signage erected and maintained.
Animal	excludes a Person but includes, although is not limited to, any of the species or groups listed in the first column of the Table of Animal Numbers and Types in clause 2.1 Keeping Animals, and includes Livestock, reptiles, insects and any other living animal tame or wild kept by a person.
Applicant	means the person who applies for a Permit under this Local Law.
Asset Protection Permit	means a Permit referred to in clause 9.5 of this Local Law.

Assistance Animal	has the same meaning as in the <i>Disability Discrimination Act 1992</i> .
Authorised Officer	means any person appointed pursuant to section 224 of the <i>Local Government Act 1989</i> and, in relation to a provision regulating the use, possession or consumption of alcohol where a notice has been published in the Government Gazette pursuant to section 224A of the Act, any police officer.
Barbecue	means a device used for the cooking of food outdoors whether constructed or manufactured and whether powered by gas, electricity, liquid or solid fuel, or any combination of them and includes kettles, rotisserie spits and traditional inground fire pit cooking.
Bin	means a receptacle for the storage of household refuse and rubbish as provided or approved by the Council.
Built-up area	means an area consisting of Roads along which there is urban development or along which street lighting is provided.
Bulk rubbish container	means a bin, container or other structure designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance but excludes a container used in connection with the Council's regular domestic rubbish collections.
Busk	means to perform to the public, whether by acting, juggling, dancing, singing, mime, statue, drawing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.
Camping	means erecting, occupying or using any tent or makeshift or similar form of accommodation (whether temporary or permanent), or parking, occupying or using any caravan or other movable form of accommodation.
Commercial Activity	includes any activity conducted for the purpose of financial gain or profit and includes but is not limited to: <ul style="list-style-type: none">(a) any business or trading activity involving the sale of goods or services;(b) the use of Council Land or fixtures on Council Land in connection with any business or trading activity;(c) the collection of abandoned goods for gain or reward, but excludes the use of Roads or thoroughfares for the purpose of travelling from place to place.
Contaminated Material	means any material designated by the Council as unacceptable for deposit in a Council-provided mobile bin or other Council-provided bin or class of bin and published by the Council from time to time.
the Council	means Mildura Rural City Council.

Council Land	means Land owned by, vested in, leased by, or otherwise occupied by the Council, or under the Council's management or control, which the public may or may not have access to (whether an admittance fee is required or not), and includes any building, structure or fence thereon and every Council sewer or drain.
Council Sewer or Drain	means any sewer or drain vested in the Council pursuant to section 198 of the <i>Local Government Act 1989</i> .
Domestic Birds	means a small bird such as a canary, finch, budgerigar or the like that is kept in a cage or aviary, but does not include Poultry or roosters.
Dwelling	means a building used as a self-contained residence which normally includes a kitchen sink, food preparation facilities, a bath or shower and a closet pan and wash basin, and includes out-buildings and works normal to a Dwelling.
Emergency Service	includes the ambulance service, fire brigade service, police and state emergency service.
Environmental Health Officer	means any Environmental Health Officer appointed by the Council from time to time.
Fire Prevention Officer	means any Fire Prevention Officer appointed by the Council from time to time.
Footpath	means any publicly accessible path that is designed and provided for the use of pedestrians, or that is regularly used by pedestrians and not vehicles, or that is a segregated footway or a shared footway.
Green Waste	means all types of organic Waste designated by the Council as acceptable Waste for any Green Waste collection as published by the Council from time to time.
Incinerator	means a structure, device or contraption (not enclosed in a building) which is: <ul style="list-style-type: none">(a) used or intended, adapted or designed to be used or capable of being used for the purpose of burning any matter, material or substance;(b) not licensed or otherwise subject to control under the provisions of any legislation; and(c) not a barbecue while being used for cooking food.
Infringement Notice	means an Infringement Notice issued by the Council or by an Authorised Officer under this Local Law.
Land	includes buildings and other structures permanently affixed to land, land covered with water and any estate, interest, easement, servitude, privilege or right in or over land.
Liquor	See 'Alcohol'

Litter	has the meaning ascribed to it in section 112 of the <i>Environment Protection Act 2017</i> as amended from time to time.
Litter Device	means a receptacle suitable for collecting and disposing lawfully of the excrement of an Animal.
Livestock	means an Animal of any species used in connection with primary production or kept or used for recreational purposes or for the purposes of recreational sport, other than a dog or cat.
Municipal Building	means any building (and its grounds) owned, occupied, controlled or managed by the Council, which has some or all areas designated for public or community access but may also have some or all areas designated for employee or staff only access, including a recreation centre.
Municipal District	means the district under the local government of the Council.
Non Urban Area	means any area that is in a: (a) Rural Living Zone; (b) Rural Conservation Zone; (c) Farming Zone; (d) Rural Activity Zone; (e) Public Conservation and Resource Zone; or (f) Public Park and Resource Zone, under the Planning Scheme.
Notice to Comply	means a notice to comply issued under this Local Law.
Offensive	means in relation to the emission of noise, dust, smoke, ash, odour, waste or other thing, which due to its intensity, duration, frequency, or other factor, results in a level of personal discomfort that a reasonable person would not expect to endure, or results in an unreasonable disruption to normal living activity.
Open Air	means any place other than within a Permanent Structure.
Outdoor Eating Facility	means any table and/or chairs used for commercial purposes and located on Council Land or a Road at which food or drink is served and may be consumed in connection with premises adjoining or situated nearby.
Park	means a Public Reserve or part of a Public Reserve that has been improved by the construction of a playing field, or contains playground equipment, or contains provisions for cooking or other eating facilities or has established and maintained lawns and garden beds.
Penalty unit	has the same meaning as in section 110 of the <i>Sentencing Act 1991</i> .

Permanent Structure	means a structure of a permanent kind consisting of a roof and fully enclosed on all sides, but does not include a tent.
Permit	means a permit issued under this Local Law.
Person	includes an individual, partnership, unincorporated body, association and corporation.
Planning Scheme	means the Mildura Planning Scheme.
Poultry	includes any fowl, duck, goose, ostrich, turkey, pheasant, quail, guinea fowl, squab and any other avian species kept for the production of eggs or ordinarily consumed as food by humans.
Procession	means an organised group of people, proceeding along a Road or a gathering for a ceremony or function and includes fun runs and bicycle events.
Public Place	has the same meaning as in section 3 of the <i>Summary Offences Act 1966</i> .
Public Reserve	means any Park, garden, lake, sporting or recreation ground or common owned by the Council or under its management or control and includes any Road, parking area, hall or other building located thereon.
Recreational vehicle	includes all motorised bikes, trail bikes, motor bikes, motor cars, motor scooters, go-carts and any other vehicles which are propelled by a motor and which are normally used for recreation.
Recyclables	means any substances or articles which the Council designates as Recyclables and are described by the Council and published on the Council's website from time to time.
Refuse Facility	means in relation to Building Works a receptacle capable of retaining builder's refuse within a Building Site and preventing removal of the builder's refuse by unauthorised persons or by wind or rain.
Road	has the meaning ascribed to it in the <i>Local Government Act 1989</i> and the <i>Road Safety Act 1986</i> and includes a road related area as defined in the <i>Road Safety Act 1986</i> as amended from time to time.
Sell	means to offer, negotiate, accept or undertake an exchange of goods or services for consideration. Under this Local Law it includes to barter or exchange, to agree to sell, to offer or display for sale, to have or keep goods in possession for the immediate purpose of sale rather than storage, to use any machine or mechanical device for the purpose, and to direct, cause or attempt any of these things.

Service authority	means an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunications or like services under the authority of an Act of Victoria or the Commonwealth and may include an emergency service.
Shopping trolley	means a wheeled container or receptacle supplied by a retailer for enabling customers to transport goods.
Smoke Free Area	means an area of, or in, or on, any Public Reserve or Council Land, which has been declared by the Council as a “smoke free” or “non-smoking” area and has Smoke Free Area signage erected and maintained.
Spruik	means attracting custom by public aural appeals to passersby, with or without sound amplification equipment.
State road authority	has the meaning ascribed to it in the <i>Road Management Act 2004</i> .
Street festival	means an organised recreational, cultural, commercial or social gathering of people that is held on a Road or Footpath.
Street Party	means an organised social gathering of people from one or several adjacent Roads that is held on a Road or Footpath.
Trade Waste	means any Waste, refuse, slops or other matter arising from or generated by any trade, industry or commercial undertaking.
Traffic	means the movement of people by foot, or in, or on, a Vehicle along, across or within a Road.
Traffic Control Device	means a Traffic Control Device, within the meaning of the <i>Road Safety Road Rules 2017</i> as amended from time to time.
Urban Area	means any area that is in a: <ul style="list-style-type: none">(a) Low Density Residential Zone;(b) Mixed Use Zone;(c) Township Zone;(d) Residential Growth Zone;(e) Neighbourhood Residential Zone;(f) Industrial Zone;(g) Commercial Zone;(h) Public Use Zone;(i) Special Use Zone;(j) Comprehensive Development Zone; or(k) Urban Floodway Zone, under the Planning Scheme.

Vehicle	has the meaning ascribed to it in the <i>Road Safety Act 1986</i> .
Vehicle Crossing	means the constructed surface between the road pavement to the property boundary for vehicle access, including any Footpath section, crossing culverts, kerb and channel or layback.
Waste	has the meaning ascribed to it in section 3 of the <i>Environment Protection Act 2017</i> as amended from time to time.
Waste collection service	means a service provided by the Council to collect and remove Waste, Recyclables and Green Waste from land within the Municipal District.

PART 2 ANIMALS

2.1 Keeping of Animals

- (1) A person must not, without a Permit, keep any Animals other than in accordance with the types and numbers in the following table:-

TYPE OF ANIMALS	MAXIMUM NUMBERS	
	URBAN AREA	NON URBAN AREA
Dogs	2	2
Cats	2	2
Poultry	10	100
Domestic Birds (includes Pigeons)	30	100
Domestic Mice	10	10
Guinea Pigs	2	10
Ferrets	4	10
Domestic Rabbits	2	2
Pigs	Not Permitted	6
Horses/Donkeys/Mules	Not Permitted	No Maximum Limit
Camel	Not Permitted	No Maximum Limit
Cattle	Not Permitted	No Maximum Limit
Sheep	Not Permitted	No Maximum Limit
Goats / Alpacas	Not Permitted	No Maximum Limit
Ostriches	Not Permitted	No Maximum Limit
Emus	Not Permitted	No Maximum Limit
Roosters	Not Permitted	No Maximum Limit
Peacocks	Not Permitted	No Maximum Limit
Any other agricultural animal	Not Permitted	No Maximum Limit

In determining whether to grant a Permit for the keeping of Animals where the number exceeds that set out in the Table, the Council must take into account:-

- (1) the zoning of the property;
- (2) the size of the property;
- (3) the proximity to adjoining properties;
- (4) the amenity of the area;
- (5) the type and additional numbers of Animals to be kept;
- (6) the likely effects on the owners or occupiers of adjoining properties;
- (7) the adequacy of Animal shelters;
- (8) the effect on the property's drainage; and
- (9) any other matter relevant to the circumstances associated with the application.

Clause 2.1 does not apply where a planning permit has been obtained for a property used for the purposes of Animal boarding, breeding or any other commercial activity involving animals, or where the occupier is licensed in accordance with the *Wildlife Act 1975*, or where the occupier is a member of a breeding or racing organisation which is approved by the Council.

Dogs kept for working stock on land exceeding 20 hectares are not counted in the numbers prescribed by clause 2.1.

Penalty: 5 penalty units

2.2 Litter of Animals

For the purpose of calculating the maximum limit of the number of Animals kept on a single property, the progeny of any Animal lawfully kept will be exempt for a period of 12 weeks after birth.

2.3 Noise and smell

For the purposes of this clause, "owner", includes a person who keeps or harbours the Animal or has the Animal in his or her care for the time being whether the Animal is at large or in confinement.

- (1) The owner of a dog that defecates in a Park, in or on a Road that contains a constructed Footpath or maintained nature-strip, or any walking path or shared Footpath or any other Public Place that has constructed surfaces or equipment or fixtures provided for the enjoyment of the public, must remove the faeces and deposit it as litter in a lawful manner.
- (2) A Person in charge of any dog on any Road or other Council Land must carry a Litter Device suitable to clean up any excrement left by his or her Animal and must produce such Litter Device upon request of any Authorised Officer.

Penalty: 2 penalty units

2.4 Effective Fencing

Each owner and each occupier of land must ensure that livestock kept or grazed on the land under his or her control does not cause a threat to public safety.

- (1) Each owner and each occupier of land must not use the land for the grazing or keeping of livestock unless it is adequately fenced for the purpose of preventing the livestock from straying onto any Road or Council Land.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (2) If land used for the grazing or keeping of livestock is not adequately fenced then in addition to any penalty that may be imposed, he or she may be issued a Notice to Comply directing the owner or occupier of the land to do any or all of the following:
 - (a) install, repair, replace or modify fences and gates;
 - (b) remove any livestock from the land; and
 - (c) not permit the grazing and keeping of livestock on the land until required works have been completed.

2.5 NOT USED

2.6 Grazing

- (1) A person must not, without a Permit, allow any livestock to graze on any Council Land or Road.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

2.7 Bees/Wasps/Fruit Flies

- (1) Each owner and each occupier of land must destroy English and European wasps nesting on the land and must comply with any direction to do so in writing by an Authorised Officer.

Penalty: 2 penalty units

- (2) For the Prevention of Fruit Fly Infestation within the Municipal District, each owner and each occupier of land is guilty of an offence:-
 - (a) who leaves, or allows to remain any fruit on the ground of the land;
 - (b) does not annually prune and maintain any fruit trees on the land; or
 - (c) does not dispose of any fruit that lies on the ground of the land by sealing the fruit in a receptacle or container such as a plastic bag and placing it in a rubbish bin.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

2.8 Riding Horses on Reservations and Footpaths

- (1) A person must not, without a Permit, ride a horse or cause or authorise another person to ride a horse in a Park.

2.9 Permission

- (1) The Council may issue a Permit for a horse to be ridden in a Park where it is reasonably necessary for this to take place and there is no reasonable and safe alternative.

PART 3 ENVIRONMENT

3.1 *Recycling and Waste Collection System*

- (1) To use the Recycling and Waste Collection System provided by the Council, the occupier of any land to which the Council provides a Waste collection service must:
- (a) use only Council provided mobile bins or other Council approved bins;
 - (b) ensure that all Council provided or other Council approved bins remain on, and are not removed from, the residential premises to which they have been allocated;
 - (c) not place in any mobile garbage bin, mobile recycling bin or mobile green organics bin any Contaminated Material;
 - (d) if directed by the Council to remove contaminated material from any mobile bin, comply with that direction;
 - (e) if directed by the Council to dispose of all contents of a mobile bin containing Contaminated Material, comply with that direction;
 - (f) place the mobile bins out for collection prior to 5.00am on the day of collection or such other time as designated by the Council from time to time;
 - (g) not leave any mobile bin out for collection more than one day before or one day after a designated collection day, unless otherwise requested by an Authorised Officer;
 - (h) place all mobile bins:
 - (i) adjacent to the kerb outside the front of the premises, at least half a metre clear of any fixed object or adjacent bin and, as far as practicable, free of any other obstruction to collection; or
 - (ii) at an alternative collection point as approved or designated by an Authorised Officer;
 - (i) ensure that any mobile bin (including contents) placed out for collection does not exceed 50 kilograms;
 - (j) maintain all mobile bins in a clean and sanitary condition;
 - (k) ensure that the area where the mobile bins are kept on the premises is kept clean and in a sanitary condition;
 - (l) ensure that the lid of any mobile bin is closed, other than when in functional use;
 - (m) not cause damage to any mobile bins;
 - (n) ensure that each mobile bin is not overfilled thereby preventing the lid from being completely closed;
 - (o) not place out for collection any material immediately adjacent to the mobile bin; and

- (p) ensure that no mobile bin is removed from the premises except for collection of material in accordance with this Local Law.
- (2) Council provided mobile bins or other Council approved bins remain the property of the Council and may be:
- (a) removed in whole or part; or
 - (b) replaced or exchanged in whole or part with bins of a different designated Waste type,
- by the Council from any land to which the Council provides a waste collection service (including Recyclables and Green Waste collections) if the occupier fails to comply with conditions of use outlined in sub-clause (1)(a) of this provision.
- (3) An occupier or owner of any land to which the Council provides a waste collection service (including Recyclables and Green Waste collections) must not after receiving one initial written warning place any Contaminated Material in a Council provided mobile bin or other Council approved bin.

Penalty for First Offence: 5 Penalty Units

Penalty for Second Offence: 10 Penalty Units

Penalty for Third and Subsequent Offences: 20 Penalty Units

3.2 Bulk Rubbish Containers

- (1) An occupier of premises who arranges for the collection of trade waste from or in respect of the premises or for the placement of a bulk rubbish container on the premises must ensure that the requirements of this clause 3.2 are complied with.
- (2) Bulk rubbish containers or bins used for the collection and storage of trade waste must be managed to Council's reasonable satisfaction, including:
 - (a) be constructed of impermeable material;
 - (b) be watertight;
 - (c) be water, fly and vermin proof;
 - (d) be equipped with any removable drainage plug required by an Authorised Officer, for public health or safety or amenity reasons;
 - (e) be thoroughly cleaned following each occasion when it is emptied;
 - (f) have a fitted lid which is kept closed at all times except when trade waste is being deposited or removed; and
 - (g) be emptied at least weekly or more regularly if the contents become offensive.
- (3) An occupier of premises must ensure that:
 - (a) the bin is stored and maintained in a clean, sanitary and inoffensive condition and kept clear of any footway, pavement or ground adjoining the storage area, to the satisfaction of the Council's Environmental Health Officer; and

- (b) the storage site is supplied with a tap connection and hose of a size approved by the Council's Environmental Health Officer.

3.3 *Transportation of Waste*

A person must not convey or cause to be conveyed in any vehicle on any Road any manure, dead animals 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:

- (1) no leakage occurs or other material is dropped or deposited on any Road, Council Land or adjacent area from the vehicle; and
- (2) the possibility of escape of offensive odours is reduced.

Penalty: 2 penalty units

3.4 *Depositing of Waste at a Municipal Landfill/Transfer Station*

- (1) Every person using a municipal landfill or transfer station must deposit waste in accordance with any directions of the attendant on duty and any signs erected at the facility and must pay the appropriate fee as set by the Council from time to time.
- (2) The Council may, by resolution, require persons to be registered with the Council before being able to use a municipal landfill or transfer station.
- (3) The Council may, by resolution, prohibit categories of waste from being deposited at a municipal landfill or transfer station.

Penalty: 5 penalty units

3.5 *Unightly Land*

- (1) Each owner and occupier of Land must not allow or permit the Land or any nature strip or grassed area of a Road abutting the Land to be kept in a manner which is unsightly or detrimental to the general amenity of the surrounding area, and, without limiting the generality of this clause, must not allow or permit the Land or nature strip or grassed area to:-
 - (a) harbour rubbish;
 - (b) harbour machinery and/or implements;
 - (c) contain disused excavation or waste material; or
 - (d) be a haven for vermin or excessive vegetation growth or any noxious weed.

Penalty: 5 penalty units

- (2) Where the condition of any land is unsightly or detrimental to the general amenity of the surrounding area, a Notice to Comply may be served on the owner or occupier of the land.

3.6 Dangerous Land

- (1) An owner or occupier of land must not cause or allow the land to be kept in a manner which is dangerous or likely to cause danger to a person, life or property, including but not limited to land which is:
 - (a) a haven for vermin or any noxious weed;
 - (b) used without a Permit for the storage of any substance which is dangerous or is likely to cause danger to a person, life or property;
 - (c) occupied by any unsecured dangerous item likely to be an attraction to children; or
 - (d) occupied by an unsecured hole or excavation.
- (2) An owner or occupier of land must create a fire break around the land if directed to do so by the Fire Prevention Officer.

Penalty: 5 Penalty units

3.7 Incinerators/Open Air Burning

- (1) A person must not light or allow to be lit or remain alight any Incinerator of any kind in any part of the Municipal District which is in a Commercial or Residential Zone under the Planning Scheme.
- (2) Sub-clause (1) does not apply in respect of horticultural properties or land used for the grazing of stock if the incinerator is 100 metres or more from a neighbouring residence.
- (3) A person must not, without a Permit, burn or cause to be burned any material in the Open Air on any Land or Road.
- (4) Sub-clause (3) does not apply in respect of Land outside the irrigation area.
- (5) Permits shall not be issued under sub-clause (3) during the 'fire danger period', as declared in accordance with the *Country Fire Authority Act 1958*.
- (6) Despite this clause a person must not allow open air burning in any part of the Municipal District on a total fire ban day.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

3.8 Application

- (1) Clause 3.7 does not apply to:
 - (a) a Barbecue while the Barbecue is attended and being used for the purpose of cooking food; or
 - (b) a fire lit by a person for the purpose of the person enjoying their culture or practising their religion.
- (2) This Part 3 does not apply to:-

- (a) any structure or device licensed under the provisions of the *Environment Protection Act 2017*;
- (b) any structure or device located on commercial or industrial premises subject to control under the provisions of the *Environment Protection Act 2017*;
- (c) any person engaged in fuel reduction burning pursuant to section 11(2) of the *Summary Offences Act 1966*; or
- (d) any person performing any act in order to comply with the *Country Fire Authority Act 1958* or any regulations made under it.

PART 4 PROTECTION OF COMMUNITY ASSETS

4.1 Drainage Tappings

- (1) A person must not, without a Permit, enter, destroy, damage, interfere with or tap into any Council sewer or drain.

Penalty: 5 penalty units

4.2 Damage to Watercourses

- (1) A person must not, without a Permit, destroy, damage or interfere with a ditch, swale, drainage basin, creek or drain or other watercourse on Council Land.

Penalty: 5 penalty units

4.3 Vehicle Crossings

- (1) Owners of land:

- (a) where kerb and channel are constructed; or
- (b) within another area designated by the Council from time to time,

must ensure that each point of vehicular access from a carriageway on a Road to their land has a properly constructed Vehicle Crossing.

Penalty: 5 penalty units

Infringement Notice: 2 penalty units

- (2) Where a properly constructed Vehicle Crossing exists, a person must not use any other passage or route for vehicular access to the land.

Penalty: 5 penalty units

Infringement Notice: 2 penalty units

- (3) For the purposes of this clause a Vehicle Crossing is properly constructed if:-

- (a) it was constructed by or in accordance with the terms of an approval by the Council or a State Road Authority; or
- (b) the Council has approved in writing the method of construction of the particular Vehicle Crossing.

- (4) If a point of vehicular access from a carriageway on a Road to adjacent land specified in sub-clause (1) does not have a properly constructed Vehicle Crossing, the Council or an Authorised Officer may serve a Notice to Comply on the owner of the land.

- (5) In the case of roll-over type kerbing adjacent to land specified in sub-clause (1) where a specific vehicular crossing point is not constructed, the Council may nominate the location at which vehicles are to cross the kerb. Where access to land is not in accordance with the location nominated by the Council, the Council or an Authorised Officer may serve a Notice to Comply on the owner of the land.

4.4 Temporary Vehicle Crossings

- (1) Where it is likely that building works on any land will involve vehicles leaving a road and entering the land, the person responsible for the building works must obtain a Permit for the construction of a temporary Vehicle Crossing which protects the existing road, kerb, drains, footpath and street trees.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (2) The Council or an Authorised Officer may serve a Notice to Comply on any person who should make application under clause 4.4(1) for a temporary Vehicle Crossing.
- (3) The person responsible for the building works must repair any damage to the existing Road, kerb, drains and footpath.
- (4) Where an existing Vehicle Crossing, footpath, street tree, kerb or other part of the Road may be damaged, the Council may require the person responsible for the building works to pay a bond to the Council.
- (5) The holder of a Permit under sub-clause (1) must, within 48 hours of completion of the works, arrange with the Council for an inspection of the site.
- (6) The amount of the bond required under clause 4.4(4) must be proportionate to the likely cost of repairing any damage and may be refunded on completion of the inspection referred to in clause 4.4(5) or may be retained by the Council to offset the costs of repairing any damage to the existing Vehicle Crossing, footpath, street tree, kerb or other part of the Road.

4.5 Redundant Vehicle Crossings

- (1) Where works on any land involve the relocation or closure of a point of vehicular access, any redundant part of a Vehicle Crossing must be removed and the kerb, drain, footpath, nature strip or other part of the Road reinstated to the satisfaction of the Council.
- (2) The Council or an Authorised Officer may serve a Notice to Comply on the owner of any land, requiring the removal of part or all of a Vehicle Crossing which does not provide an effective point of vehicle access to the land.
- (3) The Notice to Comply may require the reinstatement of any part of the Road.

4.6 Street Levels

- (1) A person must not carry out any building or other works or fence on any part of any land immediately abutting a Road or Public Reserve which is inconsistent with the level fixed by the Council for the Road or Public Reserve.
- (2) The Council or an Authorised Officer may serve a Notice to Comply on any person who has not complied with clause 4.6(1).
- (3) Any person may obtain details of the levels fixed by the Council for any Road or Public Reserve by making application to the Council.

4.7 Repairs on Roads and Footpaths

- (1) A person must not dismantle, paint, carry out maintenance on or repair a vehicle on a Road or Footpath or permit or authorise another person to do so.

Penalty: 5 penalty units

- (2) Nothing in clause 4.7(1) shall prevent a person making a temporary repair to a vehicle on a Road solely for the purpose of removing that vehicle or in an emergency.

4.8 Letter Boxes on Road Reserves

- (1) A person must not, without a Permit, erect or allow to be erected a letter box on a Road or Footpath.

Penalty: 3 penalty units

- (2) Permits for the erection of letter boxes on Roads may be subject to conditions, including, but not limited to, conditions relating to the:
- (a) siting and maintenance of the letter box;
 - (b) obligations on the Permit holder to undertake alterations and repairs directed to ensuring that a letter box is safe, suitable and appropriately located; and
 - (c) avoiding or protecting underground facilities and other assets in the Road.
- (3) Where sub-clause (1) or the conditions of sub-clause (2) are being breached, an Authorised Officer may serve a Notice to Comply on the owner or occupier of the land.

4.9 Discharge of Water Prohibited

- (1) A person must not, without a Permit, cause or Permit:-
- (a) the direct or indirect flow of any irrigation water onto any Council Land;
 - (b) the discharge of any water onto any Council Land;
 - (c) the discharge of any water onto any land (including land of that person) so as to cause or permit such water to discharge onto Council Land;
 - (d) any substance other than storm water to be discharged into the stormwater system; or
 - (e) flow of storm water run-off from undeveloped sites or construction sites that causes soil to be deposited onto Council Land, Roads or stormwater drains.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

4.10 Control of Sprinklers

- (1) The owner of land must ensure that any irrigation sprinkler heads on the land are fitted with either half circle sprinkler heads or standard sprinkler heads fitted with

adequate solid metal guards so as to prevent the discharge of irrigation water onto the adjacent Road.

Penalty: 2 penalty units

4.11 *Parking or Driving in Langtree Mall*

- (1) A person must not, without a Permit, drive or park a vehicle in the Langtree Mall.
- (2) Sub-clause (1) does not apply to persons driving emergency vehicles or to staff of Council or public authorities while carrying out their duties.
- (3) When determining whether to grant a Permit, the Council or Authorised Officer will have regard to the time of access requested and the safety of pedestrians.

Penalty: 2 penalty units

4.12 *Works on Council Land and Buildings*

- (1) A person must not construct, redevelop or undertake improvement works on Council owned, managed or controlled land and facilities without the prior written consent of the Council.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

PART 5 COMMUNITY SAFETY AND AMENITY

5.1 Road and Footpath Obstructions

- (1) A person must not, without a Permit:-
- (a) occupy or fence off part of a Road or Footpath;
 - (b) erect a hoarding or overhead protective awning on a Road or Footpath;
 - (c) use a mobile crane or travel tower for any work on a Road or Footpath;
 - (d) remove or prune any street tree on a Road or Footpath; or
 - (e) plant any tree or shrub or landscape any part of a Road or Footpath.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

- (2) Where a Permit is issued under sub-clause (1) the Council or an Authorised Officer may determine, and require the payment of, fees for the reinstatement of Roads, Footpaths or street trees damaged or altered by works of a type listed in sub-clause 5.1(1)(a) to (e) inclusive.
- (3) The Council may require payment of the fees prior to the issue of a Permit.
- (4) The Council may, before issuing a Permit, require the payment of a bond to secure the cost of repairs to a Road, Footpath or Council asset damaged or affected by works of a type listed in sub-clause 5.1(1)(a) to (e) inclusive.
- (5) The holder of a Permit issued under sub-clause (1) must within 48 hours of completion of the work arrange with the Council for an inspection of the site.
- (6) The amount of the bond must be proportionate to the likely cost of repairing any damage or replacing any Road, Footpath or Council asset and may be refunded on completion of the inspection referred to in clause 5.1(5) or may be retained by the Council to offset the cost of making good any damage.

5.2 Storage of Materials on Road

- (1) A person must not, without a Permit, deposit or place any soil, garden refuse, prunings, building materials, refuse containers, building rubbish, electrical cords, air hoses, shipping containers or other similar obstructions on, upon, across or over any Road or Footpath, or Council asset.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

5.3 Street Parties, Street Festivals and Processions

- (1) A person must not, without a Permit, hold a party, festival or procession on any Road.

Penalty: 5 penalty units

- (2) In determining whether to grant a Permit for a party, festival or procession, the Council or Authorised Officer may take into account:-

- (a) whether the party, festival or procession will unreasonably inconvenience Road users including all owners and occupiers of properties with vehicular access to the section of Road to be closed;
 - (b) whether the written permission of the Victoria Police and the relevant State Road Authority has been obtained and their requirements met;
 - (c) whether the Road can be closed to vehicular traffic, or partly closed to vehicular traffic with safe and effective separation of vehicular traffic from festival or procession patrons and equipment; and
 - (d) any other matter relevant to the circumstances of the application.
- (3) In determining whether to grant a Permit for a street party, the Council or Authorised Officer must take into account:-
- (a) whether the Road can be closed to vehicular traffic without detriment to the traffic management of the area, for the duration of the street party;
 - (b) whether the owners or occupiers of land with any vehicular access via the section of Road to be closed have been advised by the applicant by letter and given at least seven days to comment or object;
 - (c) whether a person on behalf of the applicant has been nominated to erect and remove the barriers which close the Road at locations and times specified by an Authorised Officer;
 - (d) whether the Footpath on at least one side of the Road can be kept clear of obstructions; and
 - (e) any other matter relevant to the circumstances of the application.
- (4) Where the application is to conduct a party the application must be made at least 14 days before the party is to take place.
- (5) Where the application is to conduct a festival or procession, the application must be made at least 28 days before the festival or procession (as the case may be) is to take place.

5.4 Street Activities

- (1) A person must not, without a Permit, solicit or collect on any Council Land, on any Road or Footpath or from house to house any gifts of money.

Penalty: 5 penalty units

- (2) The Council may from time to time exempt any person or class of persons or any particular collection activity from the need for a Permit.
- (3) A person must not, without a Permit, on any Road, Footpath or Council Land:-
- (a) distribute any handbills (other than electoral material on Commonwealth, State and Local Government polling days), goods, gifts or advertising material or other printed matter;
 - (b) perform, busk or solicit money;

- (c) deliver any public address;
- (d) spruik, or call out from any business or retail premises in order to attract customers from a Road or Footpath to the premises; or
- (e) use any sound amplification equipment.

Penalty: 5 penalty units

5.5 *Trees and Plants, Signs and Structures Not To Obstruct or Obscure*

The owner or occupier of any land must not allow any vegetation growing on the land or any sign, structure or other thing located on the land:

- (1) to obstruct or interfere with:
 - (a) the passage of Traffic on a Road;
 - (b) the clear view of any driver or pedestrian lawfully using a Road or any other Vehicle, pedestrian or Traffic Control Device upon a Road;
 - (c) the view between motor vehicles and trains at a railway level crossing; or
 - (d) street lighting or any Traffic Control Device;
- (2) to otherwise constitute a danger to vehicles or pedestrians or compromise the safe or convenient use of an abutting Road;
- (3) to extend over any part of the Footpath or Road in such a way that it obstructs the safe passage of persons using devices like a pram, wheel-chair, child's pusher or walking frame;
- (4) in the case of a tree or plant in or growing on land, to allow it to overhang a Footpath at a height of less than 2.4 metres; or
- (5) to accumulate dropped berries, leaves or other materials on a Footpath so as to cause an obstruction or danger to any pedestrian.

Penalty: 2 penalty units

5.6 *Behaviour in Public Reserves*

A person must not while in a Public Reserve:-

- (1) without a Permit, light any fire, other than in a portable barbecue unless in a barbecue, fireplace or similar device installed by Council or subject to a Permit;
- (2) act contrary to any sign;
- (3) play any games with a hard ball except in an area set aside for that purpose;
- (4) ride a horse in a Public Reserve other than on a Road or in an area designated for the riding of horses;
- (5) without a Permit, camp or erect a tent; or

- (6) without a Permit, take part in or organise any concert, public assembly or public event.

Penalty: 5 penalty units

5.7 Damaging or Defacing Council Land Including a Road

- (1) A Person must not, unless employed, authorised or contracted by the Council for the purpose, do the following in, or on, Council Land:
- (a) destroy, damage or interfere with Council Land;
 - (b) construct an opening or gate in a fence on the boundary of Council Land which is more than one (1) metre wide;
 - (c) destroy, damage or interfere with, or allow to be destroyed, damaged or interfered with, any Council Land or any Road or any thing on any Council Land or any Road;
 - (d) destroy, damage, remove, plant or interfere with any tree, garden-bed or plant in, or on, Council Land, other than for the purposes of maintaining grass or other permitted plantings on a nature strip;
 - (e) do or omit to do anything which causes any natural or other material to escape or otherwise be conveyed onto a road and thereby become a hazard;
 - (f) destroy, damage or interfere with any other property or assets in, or on, Council Land that are owned or managed by the Council;
 - (g) remove, or allow to be removed, any thing from any Council Land or any Road which belongs to the Council or is affixed or attached to the Council Land or Road (as the case may be), unless authorised by the Council to do so, whether under this Local Law or otherwise; or
 - (h) cause any damage to any Council assets in, or on, as a result of a failure as an owner or occupier of any land to adequately maintain, or to rectify any faults within a reasonable time in, drainage systems, utility supply systems or any other matter for which the owner or occupier of the land is responsible for maintaining.

Penalty: 10 Penalty Units

- (2) An Authorised Officer may remove and impound any thing that is in or on Council Land in contravention of this clause. Where any thing is impounded, there must be compliance with the provisions of clause 9.9
- (3) A person who holds an Asset Protection Permit and is acting in accordance with its purpose, scope and conditions is exempt from this provision.

5.8 Behaviour on Council Land

- (1) A Person must not, while in or on Council Land, behave in a manner that endangers others or unreasonably interferes with the quiet enjoyment of the Council Land by any other Person.

- (2) An Authorised Officer may direct a person who commits an offence against this Local Law on Council Land to forthwith leave the Council Land, whereupon such person must comply with the direction.

Penalty: 5 penalty units

5.9 Motor Vehicles

- (1) A person must not park any motor vehicle within a Public Reserve except;
- (a) in an area set apart for the purpose;
 - (b) when and where directed or authorised by the Council or an Authorised Officer to do so; or
 - (c) upon payment of such fees (if any) as may be prescribed and authorised by the Council from time to time.
- (2) A person must not display a Vehicle for sale on a road or on Council Land.

Penalty: 2 penalty units

5.10 Removal of Offenders from a Reserve

- (1) An Authorised Officer may direct a person who commits an offence against this Local Law in a Public Reserve to forthwith leave the Public Reserve, where upon such person must comply with the direction.

Penalty: 5 penalty units

5.11 Erection of Notices and Signs by the Council in Public Reserves

- (1) The Council may for the purposes of this Part 5 and for the better control, management and preservation of a Public Reserve, erect therein such notices or signs as it sees fit designating where and in what manner entry to or access to the Public Reserve or any part thereof or any specified activity is allowed, prohibited or otherwise controlled.
- (2) A person must not remove such notice or sign except with the authority of the Council.
- (3) A person must not contravene the provisions of any such notice or sign.

Penalty: 5 penalty units

5.12 Public Swimming Pools

- (1) A person must not while attending a Public Swimming Pool:-
- (a) cause a nuisance or use Offensive behaviour towards another person;
 - (b) act to endanger any person;
 - (c) act to interfere with the quiet enjoyment of the Public Swimming Pool by any person;

- (d) destroy, damage or interfere with any Council property;
- (e) bring any animal, other than an Assistance Animal, into the Public Swimming Pool site;
- (f) enter the Public Swimming Pool site without paying the appropriate fee as determined by the Council;
- (g) consume alcohol on the Public Swimming Pool site; or
- (h) bring into the Public Swimming Pool site any glass container.

Penalty: 5 penalty units

5.13 Camping on Council Land or in Public Places

- (1) A person must not, without a Permit, camp on Council Land or in a Public Place or on any Road unless they are within a Caravan Park registered under the *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*.

In determining whether to grant a Permit, the Council must take into account:

- (a) the location of the land;
- (b) the Planning Scheme zone of the land;
- (c) the suitability of the land for camping;
- (d) the number of tents or other structures to be located on the land;
- (e) the length of time the tents and other structures that will be erected on the land;
- (f) the availability of sanitary facilities to the land;
- (g) the likely damage to be caused to the land; and
- (h) any other matter relevant to the circumstances associated with the application.

Penalty: 2 penalty units

5.14 Camping on Land other than Council Land and Public Places

- (1) An owner or occupier of Land must not, without a Permit, allow camping on that Land.
- (2) In determining whether to grant a Permit, the Council must take into account:
 - (a) any relevant standards, guidelines or codes;
 - (b) whether a building permit for a dwelling has been granted in respect of the land;
 - (c) the adequacy of the standard of habitation on the site;

- (d) the means by which effluent from the camp or facilities is to be treated and the method of disposal;
 - (e) whether any rent or charge is being paid by any person occupying the land for the camp to any person in respect of the occupation;
 - (f) whether the establishment of a camp will have any effect on the amenity of the area on which it is situated; and
 - (g) any other matter relevant to the circumstances associated with the application.
- (3) Clause 5.14(1) does not apply to camping in the following circumstances:
- (a) camping within a Caravan Park registered under the *Residential Tenancies (Caravan Parks and Movable Dwellings Registration and Standards) Regulations 2020*;
 - (b) camping in accordance with an exemption issued by the Council from time to time;
 - (c) camping directly associated with the accommodation of itinerant persons employed on the land for the purposes of the harvesting of produce from the land;
 - (d) camping (excluding in a caravan) for a period of six (6) weeks or fewer in any twelve (12) month period; or
 - (e) the use of a caravan for sleeping purposes for seven (7) consecutive nights or less.

Penalty: 2 penalty units

5.15 Temporary Dwellings

- (1) Subject to clause 5.15(2) a person must not establish, erect or occupy a temporary dwelling.
- (2) Nothing in clause 5.15(1) prevents a person who has obtained a Permit from the Council from establishing, erecting or occupying a temporary dwelling in association with the construction of a permanent detached dwelling.
- (3) A Permit issued pursuant to clause 5.15(2) operates from the date of issue and expires on the expiry date stipulated in the Permit or, if no expiry date is stipulated, after 12 months.
- (4) A person must not, after the issue of an Occupancy Permit for the permanent detached dwelling or the expiration of a permit for the temporary dwelling, occupy the temporary dwelling.

5.16 Leaving Shopping Trolleys

- (1) A person must not leave, or cause or authorise another person to leave, a shopping trolley in any of the following areas:-
 - (a) a Road; or

- (b) Council Land except in an area designated by the Council for that purpose; or
 - (c) any other Public Place.
- (2) The owner of a shopping trolley must not allow the shopping trolley to be left in any of the following areas:
- (a) a Road; or
 - (b) Council Land except in an area designated by the Council for that purpose; or
 - (c) any other Public Place.

Penalty: 5 penalty units

5.17 *Abandoned Shopping Trolleys*

- (1) An Authorised Officer may impound any shopping trolley left in contravention of this Local Law.
- (2) An Authorised Officer who has impounded a shopping trolley must notify the owner of the shopping trolley of the impounding as soon as practicable.
- (3) The Council may, by resolution from time to time, determine a fee which is not to exceed an amount that reasonably represents the cost to the Council of impounding, keeping and releasing the shopping trolley, which must be paid by the owner of a shopping trolley before the Council is required to release the shopping trolley.
- (4) Shopping trolleys that have been impounded by the Council for three (3) months may be disposed of by the Council by tender or public auction or may be transferred to the municipal landfill or be given away.

5.18 *Naming a Road*

- (1) A person must not erect a sign applying a name to a Road without first obtaining the consent of the Council.

Penalty: 2 penalty units

5.19 *Property Numbers to be displayed*

- (1) The Council may allot such numbers as are necessary to identify each premises in the Municipal District and, from time to time, may make changes to any address number.
- (2) If the Council has allocated a number to a premises the owner of that premises must mark the premises with the number and must renew or replace the number as often as may be necessary.

Penalty: 5 penalty units

- (3) The owner of the premises must ensure that the number is of a sufficient size and is placed in such a position as to be clearly readable from the Street on which the premises have their frontage.

Penalty: 5 penalty units

5.20 Residential Parking Scheme

- (1) The Council may, from time to time by resolution, designate any area of the Municipal District as an area in which a residential parking scheme is in operation.
- (2) The Council may at any time by resolution rescind, amend or vary any resolution so made.
- (3) The Council must give appropriate public notice of any resolution made under clauses 5.20(1) and (2).
- (4) A person who resides in an area in which a residential parking scheme is in operation may make application in the form of Schedule 3 to the Council for a Residential Parking Permit.
- (5) The Council may grant a Residential Parking Permit subject to such conditions as may be determined from time to time.
- (6) A Residential Parking Permit may specify the vehicle to which the Permit applies.
- (7) A Residential Parking Permit may specify the Street or Streets or part of the Street to which the Permit applies.
- (8) The holder of a Residential Parking Permit may park an eligible vehicle in the Street or Streets as specified in the Permit without being required to comply with any parking restrictions as to time indicated by parking signs associated with the Street or Streets.
- (9) The Council may, from time to time by resolution, determine a fee to be paid for a Residential Parking Permit.
- (10) Prior to the introduction of a new residential parking scheme the Council must notify the owner and occupier of every residence in the area advising as to:-
 - (a) eligibility;
 - (b) how to apply for a Permit;
 - (c) the cost of the Permit; and
 - (d) how the proposed scheme will operate.

5.21 Use of Skateboards and Bicycles

- (1) A person must not use a skate-board, bicycle, toy vehicle, roller skates or inline skates in an area that has been declared to be an area where such activity has been prohibited by:
 - (a) Council resolution on Council's website; or
 - (b) signage erected in accordance with a Council resolution.
- (2) A Council resolution referred to in sub-clause (1) may specify any or all of the conveyances mentioned.
- (3) A person must not use a skate-board, bicycle, toy vehicle, roller skates or inline skates in a shopping mall.

- (4) Where any person uses a skate-board, bicycle, toy vehicle, roller skates or inline skates in contravention of sub-clause 5.21(1) or (3) an Authorised Officer may remove the item and impound it.
- (5) The Council may, from time to time determine a fee which must be paid by the owner of a skate-board, bicycle, toy vehicle, roller skates, or inline skates that has or have been impounded under sub-clause (4) before the Council is required to release the impounded item.
- (6) Any skate-board, bicycle, toy vehicle, roller skates or in-line skates that has or have been impounded by the Council for more than one (1) month may be disposed of by the Council by tender or public auction or such other manner determined by the Council.

Penalty: 2 penalty units

5.22 *Clothing Bins*

- (1) A person must not, without a Permit, place a clothing bin on any Council Land or Road.

PART 6 CONSUMPTION OF ALCOHOL IN PUBLIC PLACES

6.1 Roads/Car Parks/Public Reserves

A person must not, on a Road or Public Reserve, or in a motor vehicle parked on a Road or Public Reserve, in a prescribed area during a prescribed period:

- (1) consume any Alcohol; or
- (2) have in his or her possession or control any Alcohol other than Alcohol in a sealed container with an unbroken seal.

Penalty: 2 penalty units

6.2 Prescribed Area

- (1) The Council may by resolution specify areas of the Municipal District to be a prescribed area for the purposes of clause 6.1. If the Council prescribes an area to be a prescribed area, it must:
 - (a) publish a notice on its website;
 - (b) erect signage signifying prescribed areas; and
 - (c) ensure that a description of the area is available for inspection at the offices of the Council during normal business hours.

6.3 Prescribed Period

- (1) The Council may by resolution, at the time of specifying an area to be a prescribed area, specify in relation to that area:
 - (a) periods of the year; or
 - (b) periods of the week; or
 - (c) periods of the day, or of specified days,that are to be “no alcohol” periods for the purposes of clause 6.1.
- (2) If no period is specified in relation to an area, the “no alcohol” period for that area is all day every day.
- (3) For the purpose of this Part, a “no alcohol” period is a prescribed period.

6.4 Exemption from this part

This Part does not apply to:

- (1) an area in which the consumption of Alcohol is permitted in accordance with a licence granted under the *Liquor Control Reform Act 1998*;
- (2) circumstances to which the *Liquor Control Reform Act 1998* does not apply by virtue of section 6 of that Act; or

- (3) consumption of Alcohol at an organised event for which a Permit has been granted.

PART 7 BEHAVIOUR

7.1 Misuse of Shopping Trolleys

- (1) Any person who, while in a Public Reserve or other Public Place, uses a shopping trolley for any purpose other than the purpose for which the shopping trolley has been specifically designed is guilty of an offence.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.2 Urination, Defecation and Vomiting in Public

- (1) A person must not urinate, defecate or vomit in a Public Place other than in a toilet facility constructed for such a purpose.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.3 Behaviour in Certain Public Places

- (1) An Authorised Officer may direct a person to leave any Public Reserve, pedestrian mall, Footpath or other Public Place if the Authorised Officer believes on reasonable grounds that the person is behaving in a riotous, indecent, offensive, threatening or insulting manner or using threatening, abusive, obscene, indecent or insulting words.
- (2) A person to whom a direction is given under sub-clause (1) must comply with that direction.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.4 Music Noise (Vehicles, Public Places)

- (1) An Authorised Officer may direct a person playing amplified music in a Public Place (including in a Street or Public Reserve or in a motor vehicle in a Street or Public Reserve) to cease playing such music if the music is offensive.
- (2) A person to whom a direction is given under sub-clause (1) must comply with that direction.
- (3) This clause does not apply to a person who has the permission of the Council or the owner of the Public Place to play the amplified music.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

7.5 Damage to Council Property

- (1) Any person who is involved in an activity that is damaging or defacing Council property or assets, or that could reasonably be foreseen to damage Council property or assets, must immediately cease such activity upon being directed to do so by an Authorised Officer.
- (2) A person to whom a direction is given under sub-clause (1) must comply with that direction.

Penalty: 10 penalty units

Infringement notice: 5 penalty units

7.6 Wetlands and Fountains

A person must not –

- (1) enter, swim, paddle, bath, dive or jump in a wetland or fountain located on any Council Land or in a Public Place; or
- (2) throw, place or cause or suffer to be thrown or placed any liquid, powder substance, stones, rocks, sticks, paper, dirt or rubbish or other object, substance or thing of any kind into a wetland or fountain located on Council Land or in a Public Place.

Penalty: 10 penalty units

Infringement notice: 5 penalty units

PART 8 COMMERCIAL ACTIVITY ON COUNCIL LAND

8.1 Commercial activity on Council Land

- (1) A person must not, without a Permit, carry out any Commercial Activity on Council Land.

Penalty: 5 penalty units

For the purpose of this clause a person is deemed to have complied with clause 8.1 if:

- (2) the Commercial Activity is an integral part of an activity authorised by a Permit issued under the provisions of another clause of this Local Law; or
- (3) the Commercial Activity is authorised under, or contemplated by, some other binding agreement entered into with the Council.

8.2 Advertising Signs / Display of Goods

- (1) A person must not, without a Permit, place or cause or authorise another person to place:-
 - (a) an advertising sign on any Council Land; or
 - (b) any goods or vehicles for display or sale on any Road.
- (2) The Council may by resolution exempt any person or class of persons or any particular type of advertising sign or other activity from the requirement to obtain a Permit under this clause.

Penalty: 5 penalty units

- (3) In deciding whether or not to grant a Permit the Council may take into account:-
 - (a) whether the advertising sign or goods will create a hazard to pedestrians or will otherwise cause an obstruction;
 - (b) the amenity of the area;
 - (c) any other signs associated with the applicant's premises; and
 - (d) any other matter relevant to the circumstances of the application.
- (4) When any advertising signs or goods are placed or displayed contrary to this Local Law or in contravention of any Permit conditions the advertising sign or the goods may be removed by an Authorised Officer and impounded.
- (5) The Council may, by resolution from time to time, determine a fee which must be paid by the owner of any impounded advertising sign or goods before the Council is required to release the advertising sign or goods.
- (6) Advertising signs or goods that have been impounded by the Council for more than one month may be disposed of by the Council by tender or public auction, or may be transferred to the municipal landfill or given away. Where perishable goods have been impounded, the Council may dispose of the goods as soon as reasonably appropriate.

8.3 Signs relating to Sale of Real Estate

- (1) Where premises (not being vacant land or a display home) are:
 - (a) to be sold by public auction; or
 - (b) open for inspection by the public;
a flag not exceeding two (2) square metres may be displayed on the premises or a neighbouring premises provided:
 - (c) it does not obstruct the movement of pedestrian or vehicular traffic along a Road or Footpath;
 - (d) it does not impair the vision of pedestrians or drivers of vehicular traffic along a Road or Footpath; and
 - (e) the mounting point of the flag is on or within the boundary of the premises.
- (2) Any flag displayed under sub-clause 8.3(1) must be removed immediately upon the completion of the public auction or the public inspection.
- (3) Movable Advertising Signs relating to the sale of real estate must comply with clause 8.2.
- (4) Sub-clause 8.3(3) does not apply to vacant land or a display home.

8.4 Trading From Roadside

- (1) A person must not, without a Permit:-
 - (a) erect or place on any Council Land or in any Public Place a vehicle, caravan, trailer, table, stall or other similar structure for the purpose of selling any goods or services; or
 - (b) sell any goods or services from a property or Road, Footpath, Council Land or Public Place adjacent to a Road or Footpath to any person who is on that Road, Footpath, Council Land or Public Place.

Penalty: 5 penalty units

- (2) In determining whether or not to grant a Permit the Council may take into account:-
 - (a) whether permits required by the *Public Health and Wellbeing Act 2008*, *Food Act 1984* or any other legislation have been obtained;
 - (b) whether any other Council requirements by way of policy or guidelines have been met, including under the Footpath Trading Policy;
 - (c) whether the activity will disturb, annoy or disrupt adjacent property owners or occupiers;
 - (d) whether the activity will be detrimental to the amenity of the area;
 - (e) whether the safety of Road users or the passage of vehicles will be affected by the placement;

- (f) whether appropriate arrangements can be made for:-
 - (i) waste water disposal;
 - (ii) litter and garbage;
 - (iii) lighting; and
 - (iv) advertising signs;
 - (g) whether the consent of the relevant state road authority has been obtained where the Road is owned or managed by a state road authority; and
 - (h) any other matter relevant to the circumstances of the application.
- (3) If the Council has entered into an agreement (by way of lease, licence or otherwise) in relation to trading from a particular site, no person other than the person with whom the Council has the agreement may trade from that site whether or not that person has a Permit, unless the Council or an Authorised Officer determines otherwise.

Penalty: 5 penalty units

- (4) A person placing an object or structure on a Footpath in connection with a Commercial Activity must comply with the Footpath Trading Policy.

Penalty: 5 penalty units

- (5) The document titled 'Footpath Trading Policy', as made and amended by the Council from time to time and published on the Council's website, is hereby incorporated into this Local Law.
- (6) In addition to any other power which it has, the Council may by resolution determine a fee, charge, fare or rent payable by the seller of any goods or services from a property, Road, Footpath, Council Land or Public Place adjacent to a Road or Footpath to any person who is on that Road, Footpath, Council Land or Public Place.
- (7) Where as determined by an Authorised Officer the provisions of clause 8.4 or the conditions of any Permit are not being complied with the Authorised Officer may serve a Notice to Comply on the owner or occupier of the relevant land or Permit holder.
- (8) Where the use of a site or the contravention of any conditions on a Permit continue after a Notice to Comply has been served any goods and associated equipment may be removed by an Authorised Officer and impounded.
- (9) The Council may, by resolution from time to time, determine a fee which must be paid by the owner of any impounded goods and associated equipment before the Council is required to release the goods and associated equipment.
- (10) Goods and associated equipment that have been impounded by the Council for more than one month may be disposed of by the Council by tender or public auction, or may be transferred to the municipal landfill or given away. Where perishable goods have been impounded, the Council may dispose of the goods as soon as reasonably appropriate.

8.5 Outdoor Eating Facilities

- (1) A person must not, without a Permit, establish an Outdoor Eating Facility on any Council Land, Footpath or other part of a Road.

Penalty: 5 penalty units

- (2) In deciding whether to grant a Permit the Council may take into account:-
- (a) whether the facility is conducted in conjunction with and as an extension of food premises located immediately abutting the facility, and the applicant is the person conducting such food premises;
 - (b) whether the food premises are registered in accordance with the *Food Act 1984*;
 - (c) whether the facility would be located where it would obstruct visibility at an intersection;
 - (d) whether appropriate and safe pedestrian access can be maintained;
 - (e) whether the tables, chairs and other equipment to be used will be a hazard; and
 - (f) any other matter relevant to the application.
- (3) The Permit holder must ensure that the Outdoor Eating Facility is maintained in a clean and tidy condition at all times.
- (4) Where the provisions of clause 8.5 or the conditions of any Permit are not being complied with an Authorised Officer may serve a Notice to Comply on the owner or occupier of the relevant food premises or the Permit holder.
- (5) Any tables, chairs, umbrellas, heaters or other equipment in an Outdoor Eating Facility used in contravention of clause 8.5 or 8.6 or of any conditions of a Permit may be removed by an Authorised Officer and impounded.
- (6) The Council may, by resolution from time to time, determine a fee, which must be paid by the owner of any Outdoor Eating Facility equipment, before the Council is required to release that equipment.
- (7) Equipment that has been impounded by the Council for more than one month may be disposed of by the Council by tender or public auction or may be transferred to the municipal landfill or given away.
- (8) The holder of a Permit must move or remove the Outdoor Eating Facility when requested by an Authorised Officer or a member of an emergency service.

Penalty: 5 penalty units

- (9) The holder of a Permit must remove the Outdoor Eating Facility from the Footpath at the close of business each day or at such earlier time as is specified in the Permit.

Penalty: 5 penalty units

8.6 Outdoor Eating Facilities - Hotels and Licensed Restaurants

- (1) The following provision, in addition to clause 8.5, applies to Outdoor Eating Facilities provided by the owners, occupiers and proprietors of premises licensed under the *Liquor Control Reform Act 1998*.
- (2) The Council may revoke a Permit at any time if the behaviour of patrons using an Outdoor Eating Facility becomes rowdy, offensive or otherwise disruptive of the quiet use and enjoyment of the Footpath or Road by other persons or if the owner, occupier or proprietor of the hotel or licensed restaurant breaches any provisions of the *Liquor Control Reform Act 1998*.

PART 9 GENERAL

9.1 Notice to Comply

- (1) The Council or an Authorised Officer may, by serving a Notice to Comply in the form of Schedule 2, direct any owner, occupier, or other relevant person to remedy any situation which constitutes a breach of this Local Law.
- (2) A Notice to Comply must state the time and date by which the situation must be remedied. The time required by a Notice to Comply served under this Local Law must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:
 - (a) the amount of work involved;
 - (b) the degree of difficulty;
 - (c) the availability of necessary materials or other necessary items;
 - (d) climatic conditions;
 - (e) the degree of risk or potential risk; and
 - (f) any other relevant factor.

9.2 Failure to Adhere to Notice

- (1) Any person who fails to remedy a situation in accordance with a Notice to Comply served under this Local Law is guilty of an offence.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

9.3 Power to Act in Urgent Circumstances

- (1) An Authorised Officer may, in urgent circumstances arising as a result of another person's failure to comply with this Local Law, take action to remove, remedy or rectify a situation without the necessity to serve a Notice to Comply provided:
 - (a) he or she determines that the circumstances are, or situation is, urgent and that the time involved or difficulties associated with serving a Notice to Comply may place a person, animal, property or thing at risk or in danger;
 - (b) the Chief Executive Officer, or their delegate, approves the proposed action;
 - (c) details of the circumstances and remedying action are, as soon as possible, forwarded to the person on whose behalf the action was taken; and
 - (d) the Council is advised as soon as practicable of the action taken.
- (2) The action taken by an Authorised Officer under clause 9.3(1) must not extend beyond what is necessary to cause the immediate abatement of the risk or danger involved.

9.4 Appeal against Notice to Comply

- (1) Any person who is aggrieved by the requirements of a Notice to Comply may apply to the Council for review of the Notice to Comply and to be heard and make a written submission for consideration by the Council.
- (2) An application for review under sub-clause (1) will not in any way remove that person's obligation to act in accordance with any directions or notices which are applicable under this Local Law.

9.5 Application for Permit

- (1) An application for a Permit must be in writing and must be accompanied by the appropriate fee, if any, as determined by Council resolution from time to time.
- (2) The Council may require an applicant to give notice of their application in the manner specified and may permit other persons to make a submission and to be heard in respect of it.
- (3) The Council may require additional information to enable an application for a Permit to be properly considered and for the purposes of administering and enforcing the provisions of this Local Law.

9.6 Permits May Be Conditional

- (1) The Council or an Authorised Officer may issue a Permit with or without conditions, including conditions relating to:-
 - (a) the payment of a fee or charge;
 - (b) a standard to be applied;
 - (c) a time limit to be applied;
 - (d) the happening of an event;
 - (e) the rectification, remedying or restoration of a situation or circumstance;
 - (f) where the applicant is not the owner of the subject property, the consent of the owner; or
 - (g) the granting of some other permit or approval which may be required by the Council or another statutory or public authority whether under this Local Law or otherwise.

9.7 Duration of Permits

- (1) Except where expressly stated in this Local Law or in the Permit, the Permit will operate from the date it is issued and will expire one year after the date of issue.

9.8 Cancellation of Permits

- (1) A Permit may be cancelled by the Council or an Authorised Officer at any time, if it is clear that the conditions under which the Permit was issued have not been complied with, provided: -

- (a) a Notice to Comply has been served upon the Permit holder; and
 - (b) the time for compliance with the Notice to Comply has expired.
- (2) Where the Permit holder is not the owner of the land to which the Permit relates and the owner's consent was required to be given to the application for the Permit, the owner must be notified of the:
- (a) Notice to Comply when it is issued; and
 - (b) cancellation of the Permit, where applicable.
- (3) Where any Permit issued under this Local Law contains conditions any person who contravenes or fails to comply with a condition is guilty of an offence.

Penalty: 10 penalty units

Infringement notice: 2 penalty units

9.9 Power of Authorised Officer to Impound

- (1) If an Authorised Officer has impounded an animal or other thing in accordance with this Local Law, the Council may refuse to release it until the appropriate fee or charge for its release has been paid to the Council.
- (2) As soon as possible after impounding the animal or thing the Authorised Officer will, if practicable, serve a Notice of Impounding in the form of Schedule 1 on the owner or person responsible for the item which has been impounded, setting out the fees and charges payable and the time by which the item must be retrieved.
- (3) An impounded thing must be surrendered to:
 - (a) its owner; or
 - (b) a person acting on behalf of its owner who provides evidence to the satisfaction of an Authorised Officer of their authority from the owner,
on
 - (c) evidence to the satisfaction of the Authorised Officer being provided of the owner's right to the thing; and
 - (d) payment of any fee determined by the Council or an Authorised Officer from time to time.
- (4) Clause 9.9(3) does not apply to the impounding of any item where the nature of the item impounded is such that it would be impracticable to return the item to the person from whom it was seized and impounded or the owner.
- (5) If after the time specified in the Notice of Impounding an impounded animal or thing is not retrieved, an Authorised Officer may take action to dispose of the impounded animal or thing.
- (6) When the identity or whereabouts of the owner or person responsible for the impounded item is unknown, the Authorised Officer must take reasonable steps to ascertain the identity or whereabouts of that person and may proceed to dispose of the impounded item in accordance with sub-clause (3) once he or she is satisfied that all reasonable efforts have been made to contact the owner or person responsible for the impounded animal or thing.

- (7) Any proceeds from the disposal of impounded items must be paid to the owner except for the reasonable costs incurred by the Council in the administration of this Part.
- (8) In the event that the owner cannot be identified or located within one year of the date the Notice of Impounding was served any proceeds as described in paragraph (7) will be dealt with in accordance with the *Unclaimed Money Act 2008*.

9.10 Offences

- (1) Any person who contravenes a provision of this Local Law is guilty of an offence.

9.11 General Penalty

- (1) If no penalty is specified for an offence against this Local Law, the penalty will be ten (10) penalty units.
- (2) The penalty for a second or subsequent offence against this Local Law is twenty (20) penalty units.

9.12 Infringement Penalty

- (1) An Infringement Notice may be issued as an alternative to prosecution in respect of offences against this Local Law.
- (2) If no infringement penalty is specified for an offence against this Local Law, the infringement penalty will be two (2) penalty units.

9.13 Infringement Notices

- (1) An Authorised Officer may serve an Infringement Notice on a person whom the Authorised Officer believes has committed an offence against this Local Law, in accordance with the *Infringements Act 2006*.

9.14 Council Staff and Contractors

- (1) Despite anything to the contrary in this Local Law, where the proper discharge of a contract with the Council or duties of office requires a member of Council staff or person acting on the Council's behalf to do something that requires a Permit under the provisions of this Local Law, those provisions do not apply, and no Permit need be obtained.

SCHEDULE 1

ENVIRONMENT LOCAL LAW

**MILDURA RURAL CITY COUNCIL
SCHEDULE 1**

NOTICE OF IMPOUNDING

TO: _____
(Name)

(Address)

The following item(s) has/have been impounded in accordance with the Council's Community Local Law.

Describe: _____
items _____
impounded _____

You may collect the items by attending at the municipal offices between the hours of _____ and _____ to see _____ and by paying the following:
(Contact Officer)

Details _____

Of _____

Fees and Charges _____

If you fail to collect the item(s) and pay the required fees and charges by (date), the authorised officer will proceed to dispose of the item(s) in accordance with the Council's policy.

Date: _____

Name of Authorised Officer: _____

Telephone: _____

(Signature of Authorised Officer): _____

SCHEDULE 2

**COMMUNITY LOCAL LAW
MILDURA RURAL CITY COUNCIL**

SCHEDULE 2

NOTICE TO COMPLY

TO: _____
(Name)

(Address)

You have breached clause _____ of the Council's Community Local Law. To remedy the breach, you must carry out the following work, within _____ days from the date of this notice.

Work _____
to be _____
listed _____

You should contact _____ (contact officer) at the municipal offices between the hours of _____ and _____ for any further information about this Notice.

If you fail to comply with this Notice, you will be guilty of an offence and liable for payment of the penalty of \$ (penalty) for the *first/second or subsequent offence and the authorised officer will proceed to carry out the work, the cost of which, in addition to the above penalty you will be liable for.

Date: _____
(Insert Date)

Name of Authorised Officer: _____

Telephone: _____

* Strike out whichever is not applicable

Signature of Authorised Officer: _____

NOTE: If this Notice relates to a contravention of a Permit and the Notice is not complied with, the Permit may be cancelled. If you do not wish to have the Permit cancelled, you should comply with the conditions in this Notice or show cause to the Council in writing why the Permit should not be cancelled.

SCHEDULE 3

**MILDURA RURAL CITY COUNCIL
COMMUNITY LOCAL LAW**

SCHEDULE 3

APPLICATION FOR RESIDENTIAL PARKING PERMIT

RESIDENTIAL AREA No: _____

I wish to apply for a permit to allow my vehicle to be parked in accordance with the Council's Residential Parking Scheme.

Name: _____

Surname (Other Names): _____

Address: _____

Vehicle Registration No: _____

Description of vehicle (eg. make, model, colour): _____

I declare that I reside permanently at the above address. (Please tick) _____

I have attached a copy of my vehicle registration certificate to this application.
(Please tick)

Dated: _____

Signature: _____