

Local Law 17 (version 4.0.0) as amended by Local Law 18 and Local Law 20

Environment, Amenity and Asset Protection Local Law

Local Law No 17 was **made** by resolution of the Cardinia Shire Council on the 15th June 2015.
This Local Law was **amended** by Local Law 18, which was made by resolution of the Cardinia Shire Council on the 20th June 2016.
This Local Law was further **amended** by Local Law 20, which was made by resolution of the Cardinia Shire Council on the 20th June 2022.

This version is effective from 1st July 2022.
This document is version 4.0.0

VERSION HISTORY

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2.0.0	Adopted Local Law	Adopted by resolution of Cardinia Shire Council on 15 th June 2015.
3.0.0	As amended by Local Law 18	Local Law 18 was adopted by resolution of Cardinia Shire Council on 20 th June 2016. Local Law 18 came into effect on 1 st July 2016, and amended Local Law 17.
4.0.0	As amended by Local Law 20	Local Law 20 was adopted by resolution of Cardinia Shire council on 20 th June 2022. Local Law 20 came into effect on 1 st July 2022, and amended Local Law 17.

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Part 1 Introductions and definitions

1. Title

1. This Local Law may be referred to as Local Law 17 (Environment, Amenity and Asset Protection).

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.

3. The power to make this Local Law

3. This Local Law is made under section 111(1) of *the Act*.

4. Commencement

4. This Local Law comes into operation on the day that it is made.

5. Revocation

5. Local Law 9 and Local Law 10 are hereby revoked.

6. Cessation

6. This Local Law ceases to operate on the tenth anniversary of the day on which it comes into operation.

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 of Commonwealth government, 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 he or she is 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 112 of *the Act*.
- 9.2 The following documents are incorporated into this Local Law, in accordance with section 112(1) of *the Act*:
 - 9.2.1 *revoked*
 - 9.2.2 Manual for Traffic Control at Stock Crossings (VicRoads, February 2011)
 - 9.2.3 *revoked*

Clause
9.2.1
revoked by
Local Law
18,
effective 1
July 2016

Clause
9.2.3
inserted by
Local Law
18,
effective 1
July 2016

Clause
9.2.3
revoked by
Local Law
20,
effective 1
July 2022

10. Definitions

- 10.1 In exercising its powers and performing its functions under this Local Law, Council may have regard to any guidelines, policies, codes or standards it has adopted for the purpose of the 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 1989*.

'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.

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

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

'animal' includes any mammal and bird.

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

'Asset protection permit' means a permit issued by Council for the protection of public assets and infrastructure during building work, in accordance with Clause 67 of this Local Law.

'Authorised Officer' means any person appointed by the Council to be an Authorised Officer under section 224 of *the Act* 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 work' means work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a ***building*** including landscaping, concreting and subdivision road construction.

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

'dwelling' means any building or portion of a building which is used, intended, adapted or designed for use for living;

'emergency service' means

- a) Victoria Police,
- b) the Metropolitan Fire Brigade,
- 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.

'garbage' means all waste or rubbish produced or accumulated in or on any property, but does not include:

- a) slops or liquid wastes,
- b) recyclable goods or garden refuse of a type which Council disposes or collects on a regular basis,
- c) waste generated from ***building work***,
- d) waste generated from the restoration, repair or servicing of motor vehicles,
- e) ash, unless it is cold, dampened wrapped or contained in a manner which prevents its escape,
- f) trade waste,
- g) oil, paints, solvents, herbicides and similar chemical substances (except paint residue contained in a sealed container),
- h) hazardous chemicals,
- i) volatile, explosive or flammable substances,
- j) any waste that cannot be contained in an approved garbage bin due to its size, shape, nature or volume,

- k) medical or veterinary waste,
- l) any other substance declared by the Council or an Authorised Officer not to constitute 'refuse' for the purposes of this Local Law.

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

'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' has the same meaning as the *Infringements Act 2006*.

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

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

Explanatory note

The *Residential Tenancies Act 1997* defines a 'moveable 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**.

'municipal place' means a **municipal building**, **municipal recreation centre**, **Municipal Landfill and Transfer Station** or **municipal reserve**.

‘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 82.

‘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 Environment and Primary Industries.

‘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.

‘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***, and
 - 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 of the *Local Government Act 1989*.

‘***parking area***’ has the same meaning as in the *Road Safety Road Rules 2009*.

‘***Penalty Unit***’ has the same meaning as set out in section 110 of the *Sentencing Act 1991*.

‘***permit***’ (except in connection with an Asset Protection Permit issued in accordance with Clause 67) 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 noxious weed species can be obtained from the Council, or from the Department of Environment and Primary Industries.

‘***Poultry House***’ ‘***Aviary***’ and ‘***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 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 owed 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 Act 1987*;
- 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 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.

‘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
- 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 Act***, and the phrase ‘road (including a road reserve, footpath or nature strip)’ 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.'

'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***.

'sell' include -

- 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 individuals with disabilities.

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

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

'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 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.

'unregistered' in relation to a *motor vehicle*, has the same meaning as the *Road Safety Act 1986*.

'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.

Part 2 Municipal places, recreation centres and reserves

11. Behaviour in municipal places

11. A person must not:

- 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 enter or use any dressing room, shower, convenience or other area in a *municipal place* which has been designated for persons of the opposite gender, unless the person is a child under the age of eight years in the care of a responsible adult;
- 11.14 sell any goods or services in a *municipal place*, without the written consent of the Council;
- 11.15 erect, affix or place any advertisement in a *municipal place*, without the written consent of the Council;
- 11.16 erect, operate or cause to be erected or operated any amusement in a *municipal place*, without the written consent of the Council;
- 11.17 obstruct, hinder or interfere with any member of staff of the Council in the performance of his or her duties at a *municipal place*;
- 11.18 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;
- 11.19 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;

11.20 make any wager for money or engage in any form of gambling in a *municipal place*, without the written consent of the Council;

11.21 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; and

12.1.5 charge fees, or authorise any other person to charge fees, 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 and fees or charges for admission to or the hire or use of a *municipal place* or part of a *municipal place*; and

12.2.2 conditions applying to and fees or charges for hire or use of any property of the Council in connection with a *municipal place*.

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;

12.3.2 enter or remain in a *municipal place* during hours when the *municipal place* is not open to the public;

12.3.3 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:

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

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 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

Explanatory note:

Toy vehicle means a vehicle designed to be propelled by human power and includes scooters, skateboards, roller skates and blades etc. It does not include a wheelchair, pram or pusher, when used for its intended purpose.

14. Municipal recreation centres

14. At a *municipal recreation centre*, a person must not:

- 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 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 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

15. Activities prohibited in a municipal reserves

15. A person in a *municipal reserve* must not:

- 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 he or she is 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 advertisements 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 play, engage in or practice bicycle riding, skateboarding, roller blading, roller skating or scooter riding or similar activities without wearing a helmet and protective clothing and equipment;
- 15.16 drive any vehicle in a manner that is:
 - 15.16.1 dangerous to any other person in the *Municipal Reserve*; or

- 15.16.2 likely to interfere with the reasonable use and enjoyment of the ***Municipal Reserve*** by any other person;
 - 15.17 park any vehicle in contravention of any parking restrictions that apply in that ***Municipal reserve***.
 - 15.18 park or drive a vehicle other than in an area set aside for that purpose.
 - 15.19 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;
 - 16.1.2 wheeling a bicycle, pram, baby or child carriage, wheelchair or children's toy along a footpath;
 - 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;
 - 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 organization;
 - 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

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 where the use of **toy vehicles** is prohibited by the inscription on a sign erected by the Council.
- 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 means a vehicle designed to be propelled by human power and includes scooters, skateboards, roller skates and blades etc. It does not include a wheelchair, pram or pusher, when used for its intended purpose.

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 on 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 to 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 Clause 18.3.
- 18.7 The Council may temporarily or permanently exempt any retailer from the application of Clause 18.3.

19. Charitable collections

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

Maximum penalty: 20 penalty units

21. Consumption or possession of alcohol

- 21.1 A person must not consume any *alcohol* or have in his or her possession any alcohol in an open container in any *public place*.

Maximum penalty: 20 penalty units

- 21.2 For the purpose of clause 21.1, 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.

- 21.3 Clause 21.1 does not apply to the consumption or possession of *alcohol* at a function or event that is conducted in accordance with a *permit* issued under this Local Law.

22. Signs, goods and furniture

- 22.1 A person must not:

- 22.1.1 display or allow to be displayed any goods;
- 22.1.2 place or allow to be placed an *advertising sign*;
- 22.1.3 place or allow to be placed a seat, umbrella, table, chair or other furniture;
- or
- 22.1.4 post any placard, bill poster, sticker or other document

on a **road** (including a road reserve, footpath or nature strip), or **public place**, without a **permit**.

Maximum penalty: 20 penalty units

22.2 A person must not commission another person to commit a breach of Clause 22.1.

Maximum penalty: 20 penalty units

22.3 If an **advertising sign** is placed in breach of Clause 22.1:

22.3.1 the person who is knowingly concerned in the operation of the business, event or activity to which the **advertising sign** relates;

22.3.2 the person who has the management and control of premises, property, business, event or activity to which the **advertising sign** relates;

22.3.3 the person who is a promoter of the premises, property, business, event or activity to which the **advertising sign** relates; and

22.3.4 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

22.4 Nothing in sub-clause 22.3 shall affect the liability under clause 22.1 of any person who actually places any such **advertising sign** or posts any such placard, bill, poster, sticker or other document.

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

22.5.1 goods; or

22.5.2 an **advertising sign**; or

22.5.3 a seat, umbrella, table, chair or other furniture -

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

(whether or not in accordance with a **permit**), must move or remove it or them if directed to do so by:

22.5.4 an Authorised Officer; or

22.5.5 a member of an **emergency service**.

Maximum penalty: 20 penalty units

22.6 an Authorised Officer may **impound** any:

22.6.1 goods; or

22.6.2 **advertising sign**; or

22.6.3 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. Bunting

23. 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

24. Persons selling goods

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

Maximum penalty: 20 penalty units

- 24.2 The Council may exempt -
- 24.2.1 a person;
 - 24.2.2 a class of persons; or
 - 24.2.3 a body corporate-
- from the application of Clause 24.1.

25. Aerosol spray paint containers

25. A person who:
- 25.1 offers an aerosol spray paint container for sale; or
 - 25.2 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

26. Clothing recycle bins

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

Maximum penalty: 20 penalty units

- 26.2 An Authorised Officer may **impound** a clothing recycling bin which is placed on land contrary to clause 26.1.
- 26.3 A person must not:

- 26.3.1 interfere with a clothing recycling bin; or
 - 26.3.2 deposit goods near or around a clothing recycling bin; or
 - 26.3.3 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

27. Repair and display of vehicles

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

Maximum penalty: 20 penalty units

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

Maximum penalty: 20 penalty units

28. Abandoned vehicles

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

- 28.1 is *unregistered*; or
- 28.2 is *registered* and has been left standing for at least seven consecutive days and has, in the opinion of an authorised officer been abandoned; or
- 28.3 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, *public place*, or any land vested in Council.

Maximum penalty: 20 penalty units

Explanatory note

Schedule 11 of the Act 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.

29. Heavy or long vehicles

29.1 An owner or occupier of land must not:

29.1.1 keep; or

29.1.2 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*.

Maximum penalty: 20 penalty units

29.2 In clause 29.1, **heavy vehicle** and **long vehicle** have the same meaning as the *Road Safety Road Rules 2009*.

Explanatory note:

At the time this Local Law was made, the *Road Safety Road Rules 2009* (rule 200) defines:

- a) **Heavy vehicle** to mean a vehicle with a GVM of 4.5 tonnes or more, and
- b) **Long vehicle** to mean a vehicle that, together with any load or projection, is 7.5 metres long, or longer.

Part 4 Waste disposal

30. Domestic waste collection, and recyclable materials

Explanatory note:

In this part, the phrase “*bin supplied by Council*” includes bins supplied for domestic garbage, recyclable materials and green (garden) waste.

The *Environment Protection Act 1970* creates an offence to dump litter in a place other than one provided for the placing of litter.

- 30.1 An occupier of any dwelling or other land in the municipal district must comply with any standards, policy or guidelines of Council applicable to a garbage, recycling or green waste service.

Maximum penalty: 20 penalty units

- 30.2 A person must not deposit refuse or other matter in a *bin supplied by Council* to any dwelling or land of which the person is not resident.

Maximum penalty: 20 penalty units

- 30.3 A person must not deposit:

- 30.3.1 hazardous waste or chemicals
 - 30.3.2 hot ashes
 - 30.3.3 a gas bottle or any container of pressurised gas
 - 30.3.4 building or renovation waste
 - 30.3.5 soil, bricks or rubble
 - 30.3.6 medical waste, veterinary waste or syringes
 - 30.3.7 tyres
- in any *bin supplied by Council*.

Maximum penalty: 20 penalty units

- 30.4 A person must not damage or destroy any *bin supplied by Council*.

Maximum penalty: 20 penalty units

- 30.5 A person may be guilty of an offence against Clause 30.4, regardless of which dwelling or land has been allocated the bin that has been damaged or destroyed.

- 30.6 A person must not remove or interfere with any recyclable material left out on a road or at any other collection point to be collected in accordance with an instruction of Council.

Maximum penalty: 20 penalty units

- 30.7 A person must ensure that all domestic garbage, green waste, hard waste, recyclable and other waste materials which he or she places on a *road* (including a

road reserve, footpath or nature strip) for collection is placed in accordance with any standards, policy or guidelines of Council.

Maximum penalty: 20 penalty units

30.8 A person must not place a *bin supplied by Council* in a *public place* in a location that:

30.8.1 Obstructs the free use of the *road* (including road reserve, footpath or nature strip) by *motor vehicles*, or

30.8.2 Obstructs the free use of a footpath by pedestrians.

Maximum penalty: 20 penalty units

30.9 A person must not deposit domestic garbage, green waste, hard waste, recyclable and other waste materials except:

30.9.1 in a *bin supplied by Council*, or

30.9.2 in accordance with a hard-waste collection advertised by, or on behalf of, Council.

Maximum penalty: 20 penalty units

30.10 An occupier of any dwelling or other land in the municipal district must ensure that:

30.10.1 any *bin supplied by Council* is kept in good order and in a clean, sanitary and inoffensive condition, and

30.10.2 any *bin supplied by Council* is used in a manner that does not cause a nuisance to other residents.

Maximum penalty: 20 penalty units

30.11 A person must not place hard rubbish in any *public place* more than seven days prior to the advertised commencement of a hard rubbish collection for the *public place* where the hard rubbish is placed.

Maximum penalty: 20 penalty units

31. Transportation of waste

31. 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:

31.1 no leakage occurs or material is dropped or deposited on any road or adjacent area from the vehicle; and

31.2 the possibility of escape of offensive odours is minimized, to the satisfaction of an Authorised Officer.

Maximum penalty: 20 penalty units

32. Use of municipal landfill and transfer station

32.1 A person must not use a ***Municipal Landfill and Transfer Station*** unless the person:

32.1.1 pays any fees and charges applicable to the use of the service, and;

32.1.2 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

32.2 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 Clause 11 and 12) apply to ***Municipal Landfill and Transfer Stations***.

33. Dumping of refrigerators, trunks or similar containers.

33.1 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*** without first:

33.1.1 removing every door and lid; or

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

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

Maximum penalty: 20 penalty units

Explanatory note:

The *Environment Protection Act 1970* creates an offence to dump litter in a place other than one provided for the placing of litter.

Municipal place includes a ***Municipal landfill and transfer station***.

Part 5 Land use and amenity issues

34. Numbering of allotments

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

34.2 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

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

- 34.3.1 made of durable materials;
- 34.3.2 kept in a good state of repair; and
- 34.3.3 renewed as often as may be necessary.

Maximum penalty: 20 penalty units

34.4 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

35. Obstruction to visibility

35.1 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:

- 35.1.1 by a driver, of a pedestrian, motor vehicle or traffic control item; or
- 35.1.2 by a pedestrian, of a motor vehicle or traffic control item.

Maximum penalty: 20 penalty units

36. Overhanging and encroaching vegetation

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

- 36.1 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
- 36.2 to encroach upon any *road* (including a road reserve, footpath or nature strip), or *public place*.

Maximum penalty: 20 penalty units

Explanatory note:

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

37. Obstructions to roads, footpaths and road reserves

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

37.1.1 bulk rubbish container; or

37.1.2 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 the a **road**, without a **permit**.

Maximum penalty: 20 penalty units

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

37.2.1 bulk rubbish container; or

37.2.2 other thing or material

that is left contrary to Clause 37.1 or contrary to the conditions of a **permit** issued under this Local Law.

37.3 The Council or an Authorised Officer may exempt -

37.3.1 a person;

37.3.2 a class of persons; or

37.3.3 a body corporate-

from the application of Clause 37.1

38. Camping

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

Maximum penalty: 20 penalty units

38.2 Clause 38.1 does not apply to any private land that is **caravan park** within the meaning of the *Residential Tenancies Act 1997*.

Explanatory note:

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

Moveable dwelling means a dwelling that is designed to be moveable, but does not include a dwelling that cannot be situated at and removed from a place within 24 hours.

39. Caravans, moveable and temporary dwellings

39.1 A person must not occupy:

39.1.1 a caravan; or

39.1.2 a *movable dwelling*, or

39.1.3 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

39.2 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.

39.3 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 *moveable dwelling* to be occupied for more than 2 years.

39.4 *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.

39.5 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

39.5.1 the expiration of the *permit*, or

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

Maximum penalty: 20 penalty units

39.6 Clause 39.1 does not apply to any private land that is *caravan park* within the meaning of the *Residential Tenancies Act 1997*.

Explanatory note:

Moveable dwelling means a dwelling that is designed to be moveable, but does not include a dwelling that cannot be situated at and removed from a place within 24 hours.

40. Keeping animals, birds and livestock

40.1 An owner or occupier of:

40.1.1 any land having an area less than or equal 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, and

40.1.2 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** and

40.1.3 any land having an area less than 1,000m² must not keep *livestock*, or allow any *livestock* to remain on the land, and

40.1.4 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 permit issued under the *Planning and Environment Act 1987*.

40.2 Clause 40.1 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 less than or equal 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	Not permitted	Not limited by this Local Law
Livestock	Not permitted	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

Table 1. Maximum permitted animals without a permit

Maximum penalty: 20 penalty units

40.3 For the purposes of Clause 40.1, any of the following animals are not to be counted:

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

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

Explanatory note:

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

41. Keeping animals must not cause a nuisance

41. 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

42. Animal buildings and cleanliness

- 42.1 A person must not:

42.1.1 erect or use, or

42.1.2 allow the erection or use,

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

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

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

Maximum penalty: 20 penalty units

- 42.2 A person must not keep:

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

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

Maximum penalty: 20 penalty units

- 42.3 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 is:

42.3.1 maintained in a clean, inoffensive and sanitary condition; and

42.3.2 maintained so as not to cause a nuisance to any person or to be offensive, injurious to health or dangerous; and

42.3.3 provided with adequate clean drinking water; and

42.3.4 provided with adequate sustenance to the satisfaction of an Authorised Officer.

Maximum penalty: 20 penalty units

- 42.4 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

- 42.5 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 59 prohibits all owners and occupiers of land from allowing the land to be a haven for *noxious weeds*, *environmental weeds* or pest animals.

43. Animal noise

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

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

43.1.2 to prevent any noise caused by an animal being emitted from the land which in the opinion an Authorized Officer is:

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

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

Maximum penalty: 20 penalty units

43.2 For the purposes of Clause 43.1, in determining whether noise is *unreasonable*, *objectionable* or *adversely affecting the amenity*, regard must be had to:

43.2.1 its volume, intensity or duration; and

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

43.3 For the purposes of Clause 43.1, *reasonable steps* to prevent the noise include (but are not limited to):

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

43.3.2 controlling or modifying the physical environment in which the animal is kept, and

43.3.3 (where the animal causing the noise is a dog) the owner and the dog participating in behavioural training, and

43.3.4 (where the animal causing the noise is a dog) using an anti-barking citronella collar, and

43.3.5 (where the animal causing the noise is a dog, and where veterinary approval has been obtained) using a shock collar, and

43.3.6 obtaining advice from a veterinarian or animal behaviourist and implementing that advice, and

43.3.7 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

- 43.3.8 considering removal of the animal from the land or dwelling, and
- 43.3.9 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.

44. Animal waste

44. An owner or person in apparent control of a dog must:

- 44.1 not allow any part of that dog'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, and
- 44.2 ensure that the means by which to collect and dispose of that dog's excrement are carried and used by any person in apparent control of the dog when the dog is not on the property occupied by that person; and
- 44.3 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

45. Dogs to be on leads

45. A person who owns or is in apparent control of a dog in a **public place** must keep the dog under control by a leash, chain or cord connecting that person to the dog unless the **public place** is designated by Council signage to be an 'off leash' area.

Maximum penalty: 20 penalty units

46. Cats to be de-sexed

46. The owner of a cat over the age of 6 months must not keep the cat unless it is desexed, without a **permit**.

Maximum penalty: 20 penalty units

47. Livestock on roads

47.1 A person who is:

47.1.1 the **owner** of **livestock**, or

47.1.2 in apparent control of any **livestock**,

must not allow **livestock** to graze or be driven on any **road**, without a **permit**, unless Clause 48 applies.

Maximum penalty: 20 penalty units

47.2 Unless a **permit** has been issued under this Local Law or Clause 48 applies, the

owner of *livestock* that is:

47.2.1 found at large or not securely confined, and

47.2.2 on a *road* (including a road reserve, footpath or nature strip),
is guilty of an offence.

Maximum penalty: 20 penalty units

47.3 Unless a *permit* has been issued under this Local Law or Clause 48 applies, the
owner of any *livestock* that is:

47.3.1 found at large or not securely confined, and

47.3.2 on land (other than a *road*)
is guilty of an offence.

Maximum penalty: 20 penalty units

47.4 An Authorised Officer may *impound* any *livestock* if the Authorised Officer has a
reasonable belief that a person has committed an offence against Clause 47.1,
Clause 47.2, Clause 47.3, Clause 47.5 or Clause 47.6 in respect of the livestock.

47.5 The:

47.5.1 *owner* of *livestock*, or

47.5.2 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

47.6 Any:

47.6.1 *owner* of *land*, or

47.6.2 *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

47.7 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

48. Defence to charge of Livestock of Roads

48.1 A person does not commit an offence under Clause 47 if, at the time of the offence:

48.1.1 the person complies wholly with the "Manual for Traffic Control at Stock

Crossings” (Vicroads, February 2011) including obtaining all necessary permissions from the relevant road authority, and

48.1.2 the *livestock* were supervised and under effective control of a persons who are competent in the management of *livestock*, and

48.1.3 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.

49. Use of recreational vehicles

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

Maximum penalty: 20 penalty units

49.2 A person must not ride any unregistered *recreational vehicle* in a *public place*.

Maximum penalty: 20 penalty units

49.3 A person who owns an unregistered *recreational vehicle* must not knowingly allow another person to ride the *recreational vehicle* in a *public place*.

Maximum penalty: 20 penalty units

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

49.4.1 unless a *permit* has been issued in accordance with this Local Law, or

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

Maximum penalty: 20 penalty units

49.5 An owner or occupier of *land* must not knowingly allow a minor to use a *recreational vehicle* on the *land* unless it is in accordance with this Clause.

Maximum penalty: 20 penalty units

49.6 An Authorised Officer may

49.6.1 *impound* a *recreational vehicle* being used in contravention of this Local Law in accordance with Clause 81.

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

Explanatory note:

Part 8 allows the Council to adopt policies or guidelines for the issuing of permits. The Council has adopted a policy regarding permits issued for recreational vehicles, which specifies:

a) Requirements when a person applies for a permit to use recreational vehicles, and

- b) how decisions will be made regarding permits, and
- c) typical conditions imposed on permits.

A copy of the *Cardinia Shire Council Recreational Vehicle Policy* is available from Council.

50. Noise

50. A person must not:

- 50.1 cause a noise; or
- 50.2 knowingly allow or suffer a noise;

to emanate from any *land* owned or occupied 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

51. Fireworks

51. 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 2011*.

Maximum penalty: 20 penalty units

52. Revoked

53. Revoked

54. Fire prevention and fire hazards

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

- 54.1 any land (not including a building on the land), or
- 54.2 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

55. Unsightly land and graffiti

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

Clause 52
revoked by
Local Law
18,
effective 1
July 2016

Clause 53
revoked by
Local Law
18,
effective 1
July 2016

Clause 54
amended
by Local
Law 20,
effective 1
July 2022

Maximum penalty: 20 penalty units

- 55.2 For the purposes of Clause 55.1, *unsightly* includes any *land* containing:
- 55.2.1 unconstrained rubbish, or
 - 55.2.2 excessive vegetation growth, or
 - 55.2.3 a disused excavation, or
 - 55.2.4 waste material, or
 - 55.2.5 a building which is incomplete and not currently being constructed, or
 - 55.2.6 a building or other structure or thing which is *detrimental to the amenity of the area*, or
 - 55.2.7 graffiti on any building, structure or boundary fence, or
 - 55.2.8 any other item or combination of items that in the opinion of an Authorised Officer is *detrimental to the amenity of the area*.
- 55.3 For the purposes of Clause 55.1, a property or building may be *detrimental to the amenity of the area* if, in the opinion of an Authorised Officer, it has substantial adverse visual impact in the context of the surrounding area:
- 55.3.1 taking into account its appearance to the street, neighbouring properties or any *public place*, but
 - 55.3.2 not taking into account the intended design or siting of a building.

56. Shipping containers

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

Maximum penalty: 20 penalty units

57. Dangerous land

- 57.1 The owner or occupier of any *land* must not allow the *land* to be;
- 57.1.1 kept in a manner which is dangerous or likely to cause danger to health, life or property, or
 - 57.1.2 used for the storage of any substance which is dangerous, or
 - 57.1.3 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

- 57.2 Clause 57.1 does not apply to any danger to health, life or property arising:
- 57.2.1 from the condition of vegetation, unless the vegetation poses a risk to persons or property in a *public place*, or
 - 57.2.2 from the threat of fire.

- 57.3 Clause 57.1 does not apply to any **land** use where:
- 57.3.1 a **permit** for the use is issued under this Local Law, or
 - 57.3.2 a permit for the use is issued under the *Planning and Environment Act 1987*.
- 57.4 If an owner or occupier of any **land** allows the **land** to be:
- 57.4.1 kept in a manner which is dangerous or likely to cause danger to health, life or property, or
 - 57.4.2 used for the storage of any substance which is dangerous, or
 - 57.4.3 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.
- 57.5 A **Notice to Comply** served in accordance with Clause 57.4 may specify:
- 57.5.1 the material with which any fencing to be erected must be constructed; and
 - 57.5.2 the height and other dimensions of the fencing to be erected.

Explanatory note:

Clause 83 makes it an offence to fail to comply with a **Notice to Comply** issued under this Local Law.

Clause 83 describes what a **Notice to Comply** must include, and Clause 80 describes how a **Notice to Comply** may be served.

58. Weeds and pest animals

58. 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* 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 Environment and Primary Industries.

59. Interference with vegetation

59. 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

60. Septic tank connection

60.1 The owner or occupier of land where a reticulated sewerage system is not available for connection to a dwelling, must not

60.1.1 dispose of sewage other than to a septic tank system, or

60.1.2 dispose of sewage contrary to the conditions of a *permit* issued by the Council.

Maximum penalty: 20 penalty units

60.2 The owner or occupier of a dwelling that has a septic tank system must maintain the system in a condition such that no nuisance is caused to any person or to the environment.

Maximum penalty: 20 penalty units

60.3 The owner or occupier of a dwelling that has a septic tank system must provide the Council with a certificate from a qualified plumber or Environmental Health Officer every 3 years certifying that the system is in good working order.

Maximum penalty: 20 penalty units

Part 5A ***Revoked***

Part 5A
inserted
by Local
Law 18,
effective
1 July
2016

Part 5A
revoked
by Local
Law 20,
effective
1 July
2022

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.

61. Maintenance of drains

61. 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:

61.1 is maintained in a condition that is not dangerous to health, unsightly or a nuisance, and

61.2 is maintained in a working condition.

Maximum penalty: 20 penalty units

62. Protection of drains

62. A person must not, -

62.1 destroy, or

62.2 damage, or

62.3 tap into,

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

Maximum penalty: 20 penalty units

63. 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.

63.1 A person must not

63.1.1 occupy or fence off

63.1.2 erect a hoarding or scaffolding on

63.1.3 use a mobile crane or travel tower for any work on

63.1.4 make a hole or excavation in

63.1.5 fill a hole or excavation in

63.1.6 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

63.2 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

63.3 An Authorised Officer may impound any object or equipment being used in contravention of Clause 63.1 or in contravention of a **permit** issued under this Local Law.

63.4 The Council may exempt -

63.4.1 a person, or

63.4.2 a class of persons; or

63.4.3 a body corporate-
from the application of this Clause.

63.5 A person who makes a hole or excavation in a **road** or part of a **road** under the control of the Council has care and management must ensure that appropriate signs are displayed in accordance with the applicable Australian Standard.

Maximum penalty: 20 penalty units

64. Protection of assets and land

64.1 A person must not:

64.1.1 Damage, interfere with, destroy or deface

64.1.2 undertake an activity which may damage, interfere with or destroy

64.1.3 build or fill over, conceal or plant vegetation that may cause damage near 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

64.2 The Council may inspect:

64.2.1 any connection to a Council asset, or

64.2.2 any works undertaken within a **road** or easement
and impose a fee for the connection or inspection.

65. Vehicle crossings

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

- 65.1.1 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
- 65.1.2 no vehicle is allowed to enter or leave the land except by using the vehicle crossing referred to in clause 65.1.1, or in accordance with an *Asset Protection Permit* issued under clause 67, and
- 65.1.3 a redundant crossing is removed where directed in writing by the Council.

Maximum penalty: 20 penalty units

- 65.2 A person must not permanently or temporarily construct, remove or alter a vehicle crossing:
 - 65.2.1 without a *permit* issued in accordance with the *Planning and Environment Act 1987*, or
 - 65.2.2 without an *Asset Protection Permit* issued in accordance with Clause 67, or
 - 65.2.3 in accordance with a *permit* or written consent provided by the Council.
- 65.3 A person who fails to comply with Clause 65.1 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

- 65.4 Any work in respect of an asset must be performed to the satisfaction of the Council.

Maximum penalty: 20 penalty units

66. Spoil on roads

- 66.1 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 he or she is driving.

Maximum penalty: 20 penalty units

- 66.2 A person must not allow any grease, oil, mud, clay or like substance to run off a motor vehicle onto a *road*, or into a drain.

Maximum penalty: 20 penalty units

- 66.3 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

67. Asset protection permits

- 67.1 On the payment of an application fee, the Council may issue an *Asset Protection Permit* in respect of any land where *building work* is to be carried out.

- 67.2 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
- 67.3 A person must comply with any condition on an ***Asset Protection Permit***.
- Maximum penalty: 20 penalty units
- 67.4 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.
- 67.5 The ***Asset Protection Permit*** may be subject to such conditions as Council determines, including (but not limited to):
- 67.5.1 requiring protection works to be done, or
 - 67.5.2 requiring the payment of an ***Asset Protection Bond***, or
 - 67.5.3 requiring the erection of temporary fencing to the satisfaction of Council, or
 - 67.5.4 requiring that any public asset or infrastructure damage be repaired, replaced or reinstated within a specified time.
- 67.6 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.
- 67.7 The owner, builder or appointed agent must:
- 67.7.1 notify Council in writing, of proposed ***building work*** at least 7 days before ***building work*** commences, and
 - 67.7.2 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.

Explanatory note:

The owner, builder or appointed agent must notify the Council in accordance with Clause 67.7, regardless of whether a building permit has been issued.

- 67.8 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.
- 67.9 The amount of any ***Asset Protection Bond*** required under clause 67.5.2 may be determined by resolution of the Council, and may take into account:

- 67.9.1 The type, size and nature of the **building work** being undertaken, and
- 67.9.2 The total building cost of the work being undertaken, and
- 67.9.3 the likely impact of the proposed building on assets and infrastructure in the vicinity, and
- 67.9.4 any other factor.
- 67.10 Upon completion of the **building work**, Council may:
 - 67.10.1 retain all or part of the **Asset Protection Bond** to offset the costs of repairing any damage, or
 - 67.10.2 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.
- 67.11 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 67.7.2 is *prima facie* proof that there was no existing damage to such assets prior to the **building work** taking place.
- 67.12 The Council may accept an alternative form of security to an **Asset Protection Bond**.
- 67.13 Where an owner, builder or approved agent 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, any person that is guilty of an offence arising from the damage may be ordered (in addition to any other penalty) to compensate the Council for an amount not exceeding the value of:
 - 67.13.1 the damaged asset, or
 - 67.13.2 the cost of repairing or reinstating the asset to its prior state.
- 67.14 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.

68. Identifying damage to Council assets

- 68.1 Inspections of any Council assets, whether on private or public land, may be conducted at any reasonable time.
- 68.2 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.
- 68.3 An Authorised Officer may serve the responsible party with a **Notice to Comply** under Clause 68.2, specifying:
 - 68.3.1 The time and date that the damage was observed, and

- 68.3.2 a description of the damage to be repaired, and
- 68.3.3 the date that the repair must be completed by (which must not be less than 28 days from the date of the notice).
- 68.4 A person who receives a ***Notice to Comply*** under Clause 68.3 may object to the ***Notice to Comply*** in writing addressed to the Authorised Officer who issued the ***Notice to Comply***.
- 68.5 An Authorised Officer, upon receiving an objection to a ***written direction*** issued under Clause 68.3, may:
 - 68.5.1 cancel the ***Notice to Comply*** issued under Clause 68.3, or
 - 68.5.2 vary the ***Notice to Comply*** issued under Clause 68.3, or
 - 68.5.3 confirm the ***Notice to Comply*** issued under Clause 68.3.
- 68.6 A person to whom a ***Notice to Comply*** under Clause 68.3 has been directed, (that has not been cancelled or varied under clause 68.5) must comply with the ***Notice to Comply***.

Maximum penalty 20 penalty units

Part 7 Requirements of building sites

69. Stormwater protection

69. 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:

- 69.1 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
- 69.2 prevent building clean-up, wash-down or other wastes being discharged offsite or allowed to enter the stormwater system.

Maximum penalty 20 penalty units

70. Containment of refuse

- 70.1 Prior to the commencement of any ***building work*** and continuing until the ***completion of the building work***, the owner, ***builder*** or ***appointed agent***:
 - 70.1.1 must provide a closed ***facility*** for the purpose of disposal of ***builders' refuse*** that may be wind-blown, and
 - 70.1.2 must place the ***facility*** on the ***land*** and keep it in place (except for such periods as are necessary to empty the ***facility***), and
 - 70.1.3 must not place the ***facility*** on any ***Council land*** or ***road*** (including a road reserve, footpath or nature strip), without a ***permit***, and
 - 70.1.4 must empty the ***facility*** whenever full and, if necessary, provide a replacement ***facility*** during the emptying process, and
 - 70.1.5 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
 - 70.1.6 must ensure that any abutting nature strip remains tidy, and
 - 70.1.7 must ensure that no materials, vehicles or items are placed on nature strips or other ***Council land***, without a ***permit***, and
 - 70.1.8 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

- 70.2 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.
- 70.3 The Council may exempt:

- 70.3.1 a person
 - 70.3.2 a class of persons, or
 - 70.3.3 a body corporate
- from the application of Clause 70.

71. Disposal of builders' refuse

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

- 71.1 ensure that all *builders' refuse* which is capable of being carried by wind is placed in the *facility* referred to in clause 70.1, and
- 71.2 ensure that *builders' refuse* that is not placed in the *facility* referred to in clause 70.1 is not deposited on any land other than the building site directly under their control, and
- 71.3 ensure that *builders' refuse* is not deposited in or over any part of the stormwater system.

Maximum penalty: 20 penalty units

72. Removal of builders' refuse

72. 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.

73. Building site fencing

- 73.1 Clause 73.2 only applies to *building work* on *land* that is in:
 - 73.1.1 a Residential Zone (within the meaning of the Cardinia Shire Planning Scheme), and
 - 73.1.2 less than 1500m² in size.
- 73.2 An owner, *builder* or *appointed agent* engaged in *building work* must ensure that the site has *adequate site fencing* that complies with clause 73.3.

Maximum penalty: 20 penalty units

- 73.3 For the purposes of Clause 73.2, *adequate site fencing* means fences or gates of a temporary or permanent nature, that:
 - 73.3.1 extends to a height of not less than 1500mm, and
 - 73.3.2 is capable of preventing litter and *builders' refuse* from being blown from a building site by wind, and

- 73.3.3 has only one vehicle access opening that:
 - 73.3.3.1 has a width of no greater than 2800mm, and
 - 73.3.3.2 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
 - 73.3.3.3 which is located to correspond with a vehicle crossing referable to the building site, and
- 73.3.4 does not obstruct or encroach upon any **road** (including a road reserve, footpath or nature strip), and
- 73.3.5 is sufficiently secure to withstand strong winds, and
- 73.3.6 otherwise does not pose a risk to persons, property, vehicles or assets in the vicinity.

74. Sanitary facilities on building sites

- 74.1 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

- 74.2 Notwithstanding clause 74.1 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:
 - 74.2.1 no more than 3 adjacent building sites rely on the same sewerer toilet or fresh water flushing toilet, and
 - 74.2.2 access to the sewerer toilet or fresh water flushing toilet is available for any person working on all three adjoining sites.
- 74.3 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.

75. Identification of building sites

- 75.1 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:-
 - 75.1.1 is at least 600 millimetres in height and 400 millimetres in width, and
 - 75.1.2 is placed in such a location as to be clearly visible and legible from the

- road*, and
 - 75.1.3 contains the lot number of the site as described in the relevant certificate of title, and
 - 75.1.4 identifies the name, postal address and a business hours contact telephone number or numbers of the person in charge of the *building work*, and
 - 75.1.5 identifies the *Asset Protection Permit* number applicable to the *building work*.
- 75.2 If, prior to the completion of the *building work*, there is a change of *builder*, the owner must, within seven days of that change,
 - 75.2.1 give written notice to the Council, and
 - 75.2.2 cause any sign erected in accordance with clause 75.1 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
- 75.3 The notice under clause 75.2.1 must specify the date of the change of *builder* and be signed by the owner, and the new *builder*.
- 75.4 From the date of receipt of the notice under clause 75.2, the new *builder* specified in the notice is deemed to be the *builder* for the purposes of this Local Law.
- 75.5 Despite any rule of evidence, the inclusion of a person's name on a sign erected in accordance with clause 75.1, 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.

Part 8 Council may issue permits

76. Council may issue permits

- 76.1 The Council may issue a *permit* under this Local Law, with or without any conditions, may renew or extend a *permit*, or may refuse to issue a *permit*.
- 76.2 The Council may from time to time prescribe:
- 76.2.1 the manner and form in which applications for *permits* under this Local Law should be made;
 - 76.2.2 any policy that may apply to *permits* being issued, or the refusal to issue a *permit*
 - 76.2.3 the manner in which any *permit* under this Local Law should be issued; and
 - 76.2.4 the fee payable to apply for a *permit* or to renew or extend a *permit*, and
 - 76.2.5 any other matter related to issuing *permits* under this Local Law.
- 76.3 The Council may authorize staff members to issue *permits* under clause 76.1.
- 76.4 The Council must keep a record of *permits*.
- 76.5 The Council may request further information prior to issuing, or refusing to issue, a *permit*.
- 76.6 The Council may require that notice of an application for a *permit* is publicized or otherwise brought to the attention of any affected person, at the expense of the applicant.
- 76.7 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.
- 76.8 The Council may waive, reduce or alter any fee or charge with or without conditions, in respect of a class of *permit*, a class of applicant or any other circumstances.
- 76.9 A *permit* may be issued subject to conditions, including (but not limited to):
- 76.9.1 the payment of a fee; or
 - 76.9.2 charge, or lodgement or a guarantee or bond; or
 - 76.9.3 a standard to be applied; or
 - 76.9.4 a time limit to be applied or specifying the duration, commencement or completion date; or
 - 76.9.5 the happening of an event; or
 - 76.9.6 the rectification, remedying or restoration of a situation or circumstance; or
 - 76.9.7 the consent of the owner of land, or any other person affected by the issuing of the *permit*; or
 - 76.9.8 the currency of public liability insurance in respect of any activity or

- conduct related to the issue of a *permit*; or
- 76.9.9 the requirement to comply with any policy, code of practice or guidelines that Council has in force from time to time, and
- 76.9.10 the granting of some other permit or authorization which may be required by Council whether under this Local Law or otherwise.

77. Considering applications for permits

- 77.1 In considering an application for a *permit* the Council or authorized staff member may consider:
 - 77.1.1 any policy or guideline adopted by the Council relating to the subject matter of the application for the *permit*;
 - 77.1.2 any submission that may be received in respect of the application;
 - 77.1.3 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
 - 77.1.4 the risk posed to public safety, property or Council assets by the proposed activity; and
 - 77.1.5 any anticipated impact on other persons of the proposed activity; and
 - 77.1.6 whether the concerns or issues raised regarding the proposed activities can be adequately controlled by *permit* conditions, and
 - 77.1.7 the objectives of this Local Law, and
 - 77.1.8 any other relevant matter.

78. Correction of permit

- 78.1 The Council may correct a *permit* if the *permit* contains:
 - 78.1.1 a clerical mistake or an error arising from any accident, slip or omission; or
 - 78.1.2 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*.
- 78.2 The Council must note the correction in the record of *permits*.

79. Grounds for cancellation of or amendment of permits

- 79.1 The Council may cancel or amend any *permit* if the Council considers that there has been:
 - 79.1.1 a material misstatement or concealment of facts in relation to the application for a *permit*, or

- 79.1.2 any material mistake in relation to the issue of the *permit*; or
 - 79.1.3 any material change of circumstances which has occurred since the issue of the *permit*; or
 - 79.1.4 a failure to comply with the conditions under which the *permit* was issued; or
 - 79.1.5 any breach of this Local Law, including a failure to comply with a *notice to comply* issued under this Local Law.
- 79.2 Prior to cancelling or amending a permit under Clause 79.1, the Council must notify the holder of a *permit* of:
- 79.2.1 the Council's intention to amend or cancel the *permit*, and
 - 79.2.2 the basis of the intended decision, and
 - 79.2.3 the *permit* holder's right to make a written submissions within a specified period before the *permit* is amended or cancelled.
- 79.3 The Council or authorized staff member must consider any written submission made by the *permit* holder prior to making a decision to cancel or amend the *permit*.
- 79.4 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*.

Part 9 Enforcing these local laws

80. Service of documents

- 80.1 A **notice to comply** may be served:
- 80.1.1 by giving it to or serving it personally on the person to whom it is directed;
or
 - 80.1.2 by sending it by post to the person at the person's usual or last known residential or business address; or
 - 80.1.3 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
 - 80.1.4 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.
- 80.2 Clause 80.1 does not apply to any document required to be served in accordance with the:
- 80.2.1 *Criminal Procedure Act 2009*
 - 80.2.2 *Infringements Act 2006*
 - 80.2.3 *Road Safety Act 1986*
 - 80.2.4 *Local Government Act 1989*

81. Impounding and disposing of items

- 81.1 An Authorised Officer may:
- 81.1.1 **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;
 - 81.1.2 release the item to its owner on payment of a fee determined by Council, which does not exceed the reasonable costs to Council of **impounding**, keeping and releasing the item.
- 81.2 If an Authorised Officer **impounds** an item under this Local Law he or she must serve on the owner a **Notice of Seizure** that complies with Clause 81.6 as soon as possible after the item is **impounded**.
- 81.3 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 the owner's identity and or whereabouts prior to exercising its powers under clause 81.5.

- 81.4 If an impounded item is not retrieved 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:
- 81.4.1 where the item has no saleable value, it may be disposed of in the most economical way; and
 - 81.4.2 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 81.4.1;
 - 81.4.3 where the owner has advised the Council in writing that the Council may dispose of the goods because he or she does not intend to retrieve them, the Council may dispose of them by the method identified in clauses 81.4.1 or 81.4.2.
- 81.5 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.
- 81.6 A ***Notice of seizure*** served under this Clause must contain the following particulars:
- 81.6.1 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
 - 81.6.2 The name and contact details of the Authorised Officer that ***impounded*** the item,
 - 81.6.3 A brief description of the item (or items) ***impounded***, and
 - 81.6.4 The time and location that the item was ***impounded***, and
 - 81.6.5 A brief description of the reason for ***impounding*** (including the Clause of the Local Law that was breached) and
 - 81.6.6 The method of retrieving the item from ***impound***, including any fees payable prior to recovery,
 - 81.6.7 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
 - 81.6.8 instructions advising how the person may view the content of the Local Law; and
 - 81.6.9 A statement to the effect of the consequences for failure to recover the item prior to the specified date.

82. Notices to comply

- 82.1 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 83.1.5 makes it an offence for a person to fail to comply with a *notice to comply*.

- 82.2 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 82.4.
- 82.3 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:
- 82.3.1 the amount of work involved;
 - 82.3.2 the degree of difficulty;
 - 82.3.3 the availability of necessary materials or other necessary items;
 - 82.3.4 climatic conditions;
 - 82.3.5 the degree of risk or potential risk; and
 - 82.3.6 any other relevant matter.
- 82.4 A *notice to comply*, issued under this Local Law, must contain the following particulars:
- 82.4.1 The name of the person to whom the *notice to comply* is directed; and
 - 82.4.2 The last known address of the person that the *notice to comply* is directed to; and
 - 82.4.3 The address or particulars of the property that the *notice to comply* relates to; and
 - 82.4.4 The clause or clauses of the Local Law that are alleged to have been breached; and
 - 82.4.5 The date that the alleged breaches were observed; and
 - 82.4.6 Clear instructions specifying what steps must be taken by the person to comply with the *notice to comply*, and
 - 82.4.7 date and time by which the person must comply; and
 - 82.4.8 The name and contact details of the Authorised Officer who issued the *notice to comply*, and
 - 82.4.9 instructions advising how the person may view the content of the Local Law; and
 - 82.4.10 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
 - 82.4.11 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'.

- 82.5 If a person is served with a *notice to comply* fails to carry out any work stipulated in a *notice to comply*, 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*.

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

- 83.1 A person is guilty of an offence if the person:
- 83.1.1 does something which a provision of this Local Law prohibits to be done; or
 - 83.1.2 fails to do something which a provision of this Local Law requires to be done; or
 - 83.1.3 engages in activity without a current *permit* where a provision of this Local Law prohibits a person from engaging in that activity without a *permit*; or
 - 83.1.4 breaches or fails to comply with a condition of a *permit* issued under this Local Law; or
 - 83.1.5 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
 - 83.1.6 fails to comply with any *written direction* issued under this Local Law.
- Maximum penalty: 20 penalty units**
- 83.2 The maximum penalty that may be imposed for any offence against this Local Law is:
- 83.2.1 the amount specified under the provision found to have been breached, following the words 'Maximum penalty:', and
 - 83.2.2 in any other case, 20 penalty units.
- 83.3 Upon finding a person guilty of an offence against this Local Law, any Court may order a person (in addition to imposing a penalty):
- 83.3.1 to undertake any works, or to do any thing to rectify or remediate a contravention of any provision of this Local Law;
 - 83.3.2 to pay compensation to the Council for damage caused to assets vested in Council in breach of this Local Law;
 - 83.3.3 to pay compensation to the Council for the cost of any work undertaken by the Council under clause 82.5.

84. Discretionary powers

- 84.1 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:

- 84.1.1 take no action, or
 - 84.1.2 issue an *official warning*, or
 - 84.1.3 issue a *notice to comply* in accordance with Clause 82, or
 - 84.1.4 issue an *infringement*, or
 - 84.1.5 commence court proceedings, or
 - 84.1.6 take any other action permitted by law.
- 84.2 An Authorised Officer who takes any action described in Clause 84.1 may take any other action in respect of the same breach unless expressly prohibited by operation of law.

Explanatory note:

Official warning and infringement 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.

85. Power to act in urgent circumstances

- 85.1 Any 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:
- 85.1.1 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
 - 85.1.2 details of the circumstances and remedying action are forwarded as soon as practicable to the person on whose behalf the action was taken.
- 85.2 The action taken by an Authorised Officer under clause 85.1 must not extend beyond what is necessary to cause the immediate abatement of (or to minimise) the risk or danger involved.

86. Infringement notices

- 86.1 Any offence against this Local Law is an *infringeable offence* as defined by the *Infringements Act* 2006, and an Authorised Officer may issue an *infringement* for any offence under this Local Law.
- 86.2 The penalty fixed for an *infringement* notices 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.

- 86.3 The provisions of the *Infringements Act 2006* apply to an *infringement* issued for an offence against this Local Law.

Explanatory note:

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

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

Part 10 Schedule 1 – Infringement penalties

Column 1	Column 2
Clauses creating offence	Infringement penalty applicable
Clause 15.17 (parked in a reserve contrary to parking restrictions)	1 Penalty unit
Clause 15.18 (parked in a reserve)	1 Penalty unit
Clause 15.19 (parked in a reserve contrary to sign)	1 Penalty unit
Clause 16.1 (ride or drive vehicle or horse in reserve, without a permit)	1 Penalty unit
Clause 47.2 (where the livestock are found wandering on a road)	5 penalty units
Any offence not referred to elsewhere in this table	2 penalty units

Table 2. Schedule 1 – Infringement penalties