



# **GLENELG SHIRE COUNCIL**

## **General Local Law 2018**

**(Commencement Date: 1 February 2018)**

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Version 2.9

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# Glenelg Shire Council

## General Local Law 2018

### PART 1 - PRELIMINARY

#### 1.01 Local Law

This General Local Law 2018 is a local law made under Part 5 of the *Local Government Act 1989* and Part 3 Division 4 Section 42 of the *Domestic Animals Act 1994*.

#### 1.02 Objectives

The objectives of this Local Law are to provide for –

- a) those matters that require a local law under the *Local Government Act 1989* and any other Act;
- b) peace, order and good government of the municipality;
- c) a safe and healthy environment so that the community within the municipality can enjoy a quality of life that meets expectations;
- d) the safe and fair use and enjoyment of public places;
- e) the protection and enhancement of the amenity and environment of the municipality;
- f) fair and reasonable use and enjoyment of private land;
- g) protection of assets vested in, controlled or owned by Council; and
- h) uniform and fair administration and exercise of Council powers and functions of this Local Law.

#### 1.03 Commencement

This Local Law commences on <To be inserted>.

#### 1.04 Revocation of Local Law

On the commencement of this Local Law, the following Local Law is revoked:

- General Local Law No 2008

#### 1.05 Application of Local Law

This Local Law applies throughout the municipality.

This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or Planning Scheme.

## 1.06 Definitions

In this Local Law –

“**animal**” means – a live member of a vertebrate species including any fish, amphibian, reptile, bird, mammal (other than a human being) or live crustacean;

“**abandoned**” means left standing on any road or in a waterway for a continuous period exceeding 10 consecutive days;

“**appointed agent**” means the person authorised in writing by an owner of a building or land to make an application, appeal, referral or representation on the owner’s behalf;

“**appropriate fee**” means a fee determined by Council;

“**asset protection permit**” means a written permit issued by Council for the protection of public infrastructure assets during building work;

“**Authorised Officer**” means a person appointed by Council under section 224 of the *Local Government Act 1989* as amended from time to time;

“**banner**” means any form of advertising sign or advertising flag which is manufactured from fabric, cloth, plastic or similar material;

“**builder**” means a person who has applied to Council (or any other person by whom such an application may be made) for a building permit or, if no such application has been made, the person in charge of any building work being carried out;

“**builders’ refuse**” includes any solid or liquid domestic or commercial waste, debris or rubbish and, without limiting this meaning, includes any glass, metal, plastic, paper, fabric, wood, food, vegetation, soil, sand, concrete, rocks and any other waste material, substance or thing generated by or in connection with building work;

“**building**” includes any structure or building, whether temporary or permanent, or any part of such building or structure;

“**building site**” means any land on which, or on part of which, building work is being carried out;

“**building work**” means work for, or in connection with, the construction, renovation, alteration, demolition, relocation or removal of a building and includes landscaping, concreting, paving and subdivision, and road construction (extending to installation of utility services and drainage);

“**built-up area**” has the same meaning as the definition contained in ‘Dictionary’ of Road Safety Road Rules 2017 as amended from time to time;

**“bulk clothing container”** means any receptacle that has been placed on a road or a public place with its main purpose being a repository for clothing which is suitable for recycling by a charitable organisation;

**“bulk rubbish container”** means a bin, skip, container, hopper or other receptacle which is designed or used for holding refuse or rubbish and is unlikely to be moved without mechanical assistance, but does not include a rubbish receptacle used in connection with Council’s domestic waste collection;

**“barbeque”** means a receptacle constructed solely for the purpose of cooking food and includes a portable receptacle, a permanently constructed fireplace and a temporary portable barbeque fuelled by gas or electricity but does not include an incinerator;

**“busk”** means entertain, whether by playing a musical instrument, singing, conjuring, juggling, miming, dancing, operating puppets, drawing on a pavement or otherwise;

**“camp”** means to erect and occupy a tent or similar structure, or to occupy a caravan whether or not the caravan is attached to a motor vehicle;

**“caravan park”** means land which is licensed pursuant to the provisions of the *Residential Tenancies Act 1997* as amended from time to time;

**“carriageway”** means the portion of the road (whether sealed, formed or unconstructed) generally available for traffic by registered motor vehicles;

**“construction period”** means the period during which building work is being carried out;

**“contractor”** means a person who contracts to provide building work, and includes an excavator, tiler, concreter and carpenter;

**“Council”** means the Glenelg Shire Council;

**“Council land”** means any land or water which is owned, occupied or managed by Council;

**“crossing ahead signs”** means signs which are referred to in the “Manual for traffic control at stock crossings” as published by Vic Roads and as amended from time to time;

**“Droving of livestock”** means to allow livestock to be driven on a road or public place referred to in a permit issued by Council under this Local Law with a requirement that livestock are driven in a continual movement with a minimum distance of 10 kilometres during daylight hours in any given 24 hour period;

**“excavation”** means to make a hole, hollow or channel or to reveal or extract by digging out of materials;

**“facility”** in relation to [sub-clause 5.06\(2\)\(a\)](#) means a suitable rubbish receptacle capable of restricting debris and other waste from leaving a building site;



**“fire danger period”** means a period prescribed pursuant to the *Country Fire Authority Act 1958* as amended from time to time during which lighting of fires in the open air is controlled by a permit and/or Total Fire Ban system;

**“give way to stock sign”** means a give way to stock sign which is described in diagram 1 of Clause 402 (1) Road Safety Road Rules 2017 and diagram 2 of Clause 402 (3) Road Safety Road Rules 2017 as amended from time to time or which is referred to in the “Manual for Traffic Control at Stock Crossings” published by Vic Roads and amended from time to time, or any other Regulation made under the provisions of the *Road Safety Act 1986* as amended from time to time;

**“grazing of livestock”** means to allow livestock to feed on a road or public place referred to in a permit issued by Council under this Local Law and within the designated permit area but does not include “Droving of Livestock”;

**“incinerator”** means a structure, device or contraption (not enclosed in a building) which is:

- a. used or intended, adapted or designed to be used or capable of being used for the purpose of burning anything;
- b. not licensed or otherwise subject to control under the provisions of any other legislation; and
- c. is not a barbeque;

**“land”** includes buildings and other structures permanently affixed to land, land covered with water, any estate, interest, easement, and servitude, privilege or right in or over land;

**“livestock”** has the same meaning as contained in Part 1 Section 3 of the *Impounding of Livestock Act 1994* as amended from time to time and the words “livestock” and “stock” have a corresponding meaning;

**“livestock crossing”** means an area on a road where livestock are either permanently or temporarily driven or allowed to cross the road from one side to the other side and which has signs erected in accordance with the “Manual for Traffic Control at Stock Crossings as published by Vic Roads and as amended from time to time;

**“motorised recreation vehicle”** means a motorised vehicle, registered or unregistered, and includes, but is not limited to, motor bikes, motorised go-karts and beach buggies. It does not include motorised vehicles being used for farming purposes;

**“municipal place”** means any building or land occupied, managed or otherwise controlled by Council, and includes Council’s offices, community facilities, open spaces and roads;

**“municipality”** means the municipal district of the Glenelg Shire Council;

**“nature strip”** means an area between a road (except a road related area) and adjacent land, but does not include the shoulder of the road or a bicycle path, footpath or shared path;

**“noxious weed”** has the same meaning as in the *Catchment and Land Protection Act 1994* as amended from time to time;

**“occupier of land”** means any person who uses or occupies any land whether or not the person is the actual proprietor of the land and includes any person who uses or occupies the land under any agreement with the actual proprietor whether or not the agreement is in written form or by any other arrangement and in all cases whether or not the agreement or arrangement is made with or without consideration;

**“owner”** in relation to building work, means the owner of land on which the building work is carried out;

**“owner of land”** means;

- a. the registered proprietor of an estate in fee simple in land under the provisions of the *Transfer of Land Act 1958* as amended from time to time; **or**
- b. the person who appears on the Memorial of any deed, conveyance or instrument to be the last registered owner of the land; **or**
- c. the person who is liable to be rated in respect of the land;

**“penalty unit”** has the same meaning as in Section 110 of the *Sentencing Act 1991* as amended from time to time, or any statutory modification of it;

**“person”** means a natural person or a Corporation;

**“permit”** means a written permit in the prescribed form issued by Council or a permit issued in accordance with any other Act;

**“pest animals”** has the same meaning as in the *Catchment and Land Protection Act 1994* as amended from time to time;

**“pot belly stove”** means a receptacle specifically made to burn wood or coke or coal for the purpose of providing heat to warm people;

**“private land”** means any land other than Council land or Crown land;

**“public infrastructure assets”** means items, facilities or systems owned, managed or otherwise controlled by Council which provide or facilitate a public service, including (but not limited to) roads, footpaths, stormwater systems, lighting, fencing, retaining walls, trees, landscaping, kerb and channel, traffic management devices, traffic signals, signs, line marking, footpaths, nature strips, street furniture, car parks, bridges, buildings and structures;

**“public place”** has the same meaning as in Section 3 of the *Summary Offences Act 1966* as amended from time to time and, to the extent that it does not include the following, also includes any:

- a. place described by Council as a public place;
- b. park, garden, reserve or other place of public recreation or resort;
- c. vacant land or vacant space adjoining any road;
- d. road; and
- e. council building;

**“reservation”** means anything constructed or located on a road that divides the road longitudinally, excluding any lines marked on a carriageway;

**“road”** has the same meaning as contained in Part 1 Section 3 of the *Local Government Act 1989* as amended from time to time;

**“road reserve”** means the area of the road which is situated between the shoulder of the road and any adjoining land;

**“rural area”** means land not within a town or township and may be zoned Farming, Rural Conservation or Public or Special Use in the Glenelg Planning Scheme;

**“recreational vehicle” (RV)** means a self-contained vehicle which has the facilities to hold fresh, grey and black water within the confines of the vehicle and have storage capacity for garbage waste.

**“security bond”** means a payment or guarantee made to Council for the purposes of securing public infrastructure assets from the cost of damage during building work;

**“service authority”** means any company or public body responsible for the installation of telecommunications, gas, electricity, water, sewerage or drainage facilities in or on a road;

**“small birds”** means birds of a similar size to budgerigars, canaries, finches and quail;

**“stormwater system”** means a system which provides for the conveyance of storm water run-off, including kerb and channel, open channels, underground pipe systems and natural waterways;

**“supplier”** means a person responsible for the delivery or collection of materials (including timber, concrete, bricks, debris and waste) or equipment to, from or near land prior to, during or after building work and in connection with the building work;

**“temporary electric fence”** means a fence of no more than 2 electrified wires on pig tail droppers or similar type supporting posts which is capable of being easily removed;

**“temporary vehicle crossing”** means a constructed form of wooden panels or other Council approved structure over a bed of sand, that extends from the boundary of land over any public infrastructure asset to a road, and is designed to minimise damage to public infrastructure assets caused by motor vehicles and materials entering and leaving the land during the construction period;

**“urban area”** means land within a town or township and may be included in one of the following zones in the Glenelg Planning Scheme:

- a. residential or low density residential;
- b. commercial;
- c. industrial;

- d. township;
- e. public and special use zones; or
- f. rural living.

“**vehicle**” has the same meaning as contained in Part 1 Section 3 of the *Road Safety Act 1986* as amended from time to time;

“**vehicle crossing**” is a bridge or crossing constructed to Council specifications, over any footpath or channel next to a road to enable a person using the road to have access to land on the other side of the footpath or channel;

“**vessel**” has the same meaning as contained in Part 1 of *Marine Safety Act 2010* as amended from time to time.

“**wheeled recreational device**” means a wheeled device, built to transport a person, propelled by human power or gravity (or in the case of a scooter, propelled by a person pushing one foot against the ground, or by an electric motor or motors, or by a combination of these), and ordinarily used for recreation or play and -

- a. includes roller-blades, roller-skates, a skateboard, a scooter that is not a motor vehicle, or similar wheeled device;
- b. does not include a golf buggy, pram, stroller, or trolley, or a bicycle, an electric personal transporter, a wheelchair or wheeled toy, or a scooter that is a motor vehicle

“**windrow**” means any heap of logs and vegetation exceeding 20 cubic metres in volume;

## PART 2 - ENVIRONMENT

### 2.01 General Amenity of Land

- (1) An owner or occupier of land must not keep or allow land to be:
  - (a) kept in a manner which is dangerous or likely to cause danger to life or property because of the materials or substances that are kept on the land; or
  - (b) unsightly or detrimental to the general amenity of the neighbourhood because of the appearance of the land as one of neglect and out of character with other land in the vicinity; or
  - (c) likely to constitute a fire hazard because of the type or height of vegetation on the land; or
  - (d) likely to cause a nuisance or be a health hazard because of the existence of noxious weeds or the conditions provide a harbour for pest animals.
  
- (2) Without limiting the generality of [clause \(1\)\(b\)](#), land may be unsightly or detrimental to the general amenity of the neighbourhood in which it is located by the presence of:
  - (a) uncontained rubbish;
  - (b) dead trees and/or excessive growth of vegetation;
  - (c) noxious weeds;
  - (d) pest animals;
  - (e) waste material;
  - (f) unregistered motor vehicle or parts of them;
  - (g) scrap metal;
  - (h) a disused excavation;
  - (i) a building or structure which is incomplete and not currently being constructed; or
  - (j) building materials strewn about a yard.
  
- (3) Each owner or occupier of urban area land must maintain the land by:
  - (a) mowing;
  - (b) slashing; or
  - (c) otherwise controlling all overgrown vegetation and weeds

so as to give the land an overall appearance of neatness.

### 2.02 Fire Hazards

An owner or occupier of land must ensure that all necessary steps are taken to prevent fires and minimise the possibility of the spread of fire on or from their land.

## 2.03 Chimneys

An owner or occupier of any land must ensure that any chimney on that land does not discharge any dust, grit, ash or smoke to such an extent that it could be dangerous to the health or safety of, or create a nuisance to, any other person.

## 2.04 Burning of Offensive Materials

- (1) A person must not on any land burn or allow to be burned any matter which may cause an unreasonable nuisance to any other person or is liable to be injurious to health.
- (2) Without limiting the generality of [sub-clause 2.04\(1\)](#), a person must not burn on any land any:
  - (a) rubber or plastic substance;
  - (b) petroleum oil, derivative of petroleum oil or material containing petroleum oil;
  - (c) paints or receptacles which contain or which contained paints;
  - (d) manufactured chemicals;
  - (e) food wastes; or
  - (f) pressurised container.

## 2.05 Lighting of Incinerators

- (1) A person must not light or allow to remain alight an incinerator in any area designated by Council by resolution and described in Schedule 1 in the List of Schedules incorporated as a document to this Local Law as amended from time to time.
- (2) A person must not use an incinerator in any urban area unless it is:
  - (a) constructed from non-combustible material
  - (b) fitted with a spark arrester;
  - (c) located and kept at least 3 metres from any combustible material (including vegetation); and
  - (d) there is adequate means of extinguishing the fire at all times.

## 2.06 Open Air Burning

- (1) A person must not light, maintain or use any fire or allow a fire to be lit, maintained or used in the open air in any area designated by Council by resolution and described in Schedule 1 in the List of Schedules incorporated as a document to this Local Law as amended from time to time.
- (2) The provisions of [sub-clause 2.06\(1\)](#) do not apply:
  - (a) to a person who lights, maintains or uses or allows a fire to be lit maintained or used in a barbecue, pot belly stove or gas fired heater within any area designated by Council and described in Schedule 1 in the List of Schedules incorporated as a document to this Local Law as amended from time to time; or
  - (b) an Authorised Officer or member of Council staff whilst such officer or member is acting in accordance with his or her duty.

- (3) Council may at its discretion exempt in writing a person or class of persons from [sub-clause 2.06\(1\)](#).

## **2.07 Burning of Windrows**

Without a permit, a person must not burn, maintain or allow to be burnt a windrow between midnight on 30 September in each year and the commencement of the Fire Danger Period pursuant to the *Country Fire Authority Act 1958* as amended from time to time or the *Forests Act 1958* as amended from time to time as appropriate; or if no such period is declared, the 1st of March of the following year.

## **2.08 Extinguishing Fires**

- (1) A person who has lit or allowed to be lit or remain alight, or who has burned or caused or permitted to be burned any substance, contrary to clauses [2.04](#), [2.05](#), [2.06](#) or [2.07](#) must extinguish the fire or burning substance immediately on being directed to do so by an Authorised Officer.
- (2) An Authorised Officer may enter or remain on any land and extinguish any fire or burning substance if:
  - (a) The person to whom a direction has been given under sub-clause 1 fails immediately to extinguish the fire or burning substance; or
  - (b) A fire or an incinerator is apparently unattended

## **2.09 Motorised Recreation Vehicles**

- (1) Without a permit a person must not use a motorised recreation vehicle in a public place or upon any Council land unless such public place or Council land has been designated for that purpose.
- (2) A person must not use or allow others to use a motorised recreation vehicle on land owned or occupied by him or her, which in the opinion of an Authorised Officer causes a nuisance to others because of, sound, smell, dust, smoke, soil erosion or any other factor that causes a nuisance.
- (3) For the purposes of [sub-Clause 2.09\(2\)](#) an Authorised Officer must not issue any Infringement Notices or summons relative to a breach of [sub-Clause 2.09\(2\)](#) unless:
  - (a) it is in receipt of a written statement of complaint made by at least 2 independent land owners or occupiers who do not own or occupy the same land and who are the subject of a complaint pursuant to [sub-clause 2.09\(2\)](#); and
  - (b) after receiving such written statements of complaint, the Council has offered the parties to the complaint, the opportunity to attend a mediation session.

## 2.10 Excavating on Council Land

A person, other than the Council or any agent acting on behalf of or under contract to the Council, must not without a permit carry out any form of excavation on any Council Land or public place.

## 2.11 Camping on Council Land or in a Public Place

- (1) Without a permit a person must not:
  - (a) camp; or
  - (b) pitch, erect or occupy for the purposes of sleeping or accommodation any camp, sleeping bag, temporary shelter, caravan, motor home, recreational vehicle (RV), trailer or vehicle on a road; or in a public place.
- (2) The provisions of [sub-clause 2.11\(1\)](#) shall not apply to a person who occupies a caravan, motor home, recreational vehicle (RV), tent or moveable dwelling in a registered caravan park or in a designated camping area and in accordance with any conditions or occupancy time period pertaining to such park or camping area.

## 2.12 Camping on Privately Owned Land

- (1) Without a permit a person must not:
  - (a) occupy; or
  - (b) keep, other than for storage purposes, any caravan, recreational vehicle (RV) or moveable dwelling on land for more than 30 consecutive days or a total of 30 days within a 6 month period.
- (2) A permit may be obtained for longer than 30 consecutive days or a total of 30 days within a 6 month period to occupy or keep as described in sub-clause (1)(a) and (1)(b). The following considerations will be taken into account on whether to grant a permit:
  - (a) Length of time requested;
  - (b) The owner or occupier of that land consents to such camping or occupancy
  - (c) Connection to sewerage or an approved waste water system;
  - (d) Safe access to electricity;
  - (e) Access to water;
  - (f) Vehicular access to the site;
  - (g) Proximity to urban residential areas;
  - (h) Proximity to the coast; and
  - (i) Whether planning permission under the *Planning and Environment Act 1987* (as amended from time to time or its successor) is required or could be granted for a dwelling.
- (3) The provisions of [sub-clause 2.12\(1\)](#) shall not apply to a person who occupies a caravan, motor home, recreational vehicle (RV), tent or moveable dwelling in a registered caravan park or in a designated camping area and in accordance with any conditions or occupancy time period pertaining to such park or camping area.



## 2.13 Circuses, Carnivals and Festivals

A person must not without a permit conduct a circus, carnival or other similar event on Council land.

## 2.14 Recycling and Waste Collection

To use the Recycling, Green Waste and Waste Collection System provided by Council, the occupier of any residential premises must:

- (1) Use only Council provided mobile bins or other Council approved mobile bins.
- (2) Not place any contaminated material in a mobile bin including but not limited to:
  - (a) trade waste;
  - (b) medical or infectious waste;
  - (c) liquid waste;
  - (d) night soil or human excrement;
  - (e) oils, solvents, flammable liquids or paints;
  - (f) bricks, concrete, masonry, engine blocks or vehicle parts (whether or not in pieces); or
  - (g) any other matter prescribed by Council.
- (3) Not cause contamination of mobile bins by depositing items or materials in the bins other than garbage in the designated mobile garbage bin, green waste in the designated green waste bin and recyclables in the designated mobile recycling bin.
- (4) If directed by Council to remove contaminated material from any mobile bin, comply with that direction.
- (5) Must, if directed by Council to dispose of all contents of a mobile bin containing contaminated material, comply with that direction.
- (6) Only leave one mobile garbage bin, one green waste bin or one mobile recycling bin per household for collection schedule unless payment has been made for the collection of additional mobile bins.
- (7) Place all mobile bins:
  - (a) immediately behind the kerb of the street frontage of the premises;
  - (b) if there is no kerb and channel on the carriageway side of the open drain but well clear of the trafficable surface;
  - (c) at least 1 metre clear of any fixed object or adjacent bin and, as far as practicable, free of any other obstruction to collection; or
  - (d) if restrictions on space or access do not permit the above, at an alternative collection point approved or designated by Council; and
  - (e) so that the wheels of the mobile bins face the premises.
- (8) Ensure that each mobile bin is not overfilled thereby preventing the lid from being completely closed down.

- (9) Ensure that the lid of any mobile bin is closed, other than when in functional use.
- (10) Not place out for collection any material immediately adjacent to the mobile bin.
- (11) Maintain all mobile bins in a clean and sanitary condition.
- (12) Not cause damage to any mobile bin.

## **2.15 Scare Guns & Noise Emitting Devices**

- (1) A person must not, without a permit, use a scare gun or noise emitting device (such as devices designed to create noise to frighten or discourage animals including birds) where it is proposed to use the gun:
  - (a) before 6.00am or later than one hour after sunset; or
  - (b) within 300 metres of the closest residence.
- (2) Council may prescribe, limit or restrict the use of noise emitting devices, upon such terms and conditions as considered appropriate

## **PART 3 - ANIMALS**

### **3.01 Keeping of Animals**

- (1) A person must not keep any pest animal.
- (2) A person who owns or who has control of an animal must not keep that animal in an urban area if that animal is considered a nuisance, offensive, a danger to health, or is not effectively controlled.

### **3.02 Keeping of Domestic Animals**

- (1) An owner and occupier of land must comply with any adopted Council Domestic Animal Management Plan incorporated as a document into this Local Law as amended from time to time.
- (2) A person must not permit excrement of a dog under his or her care or control to remain on a road, Council land or in a public place;
- (3) A person who is in charge or control of a dog on a road, Council land or in a public place, must have in his or her possession a bag for the purpose of removing any excrement deposited by that dog from the road, Council land or public place.

### **3.03 Numbers of Animals**

- (1) Without a permit, an occupier of land in any area designated by Council by resolution and described in Schedule 2 of the List of Schedules incorporated as a document to this Local Law as amended from time to time, must not keep more than:
  - (a) 2 cats;
  - (b) 2 dogs;
  - (c) 10 pigeons;
  - (d) 10 poultry;
  - (e) 10 domestic mice;
  - (f) 2 guinea pigs;
  - (g) 2 domestic rabbits;
  - (h) 6 rodents;
  - (i) 6 reptiles; and
  - (j) 30 small birds.
- (2) Without a permit, an occupier of land in any area designated by Council by resolution and described in Schedule 2 of the List of Schedules incorporated as a document to this Local Law as amended from time to time, must not keep any:
  - (a) large birds including emus, ostriches and turkeys;
  - (b) horses or donkeys;
  - (c) cattle;
  - (d) sheep;
  - (e) goats;
  - (f) pigs;
  - (g) roosters;

- (h) camels; or
  - (i) other agricultural animals.
- (3) Without a permit an occupier of land in any area of the Municipality not being an area described in [sub-clause 3.03\(1\)](#) and [sub-clause 3.03\(2\)](#) must not keep more than either 6 dogs or 6 cats or a combination of either cats or dogs not exceeding 6.
- (4) In determining whether to grant a permit for the keeping of animals where the number exceeds that determined by the Council as set out in [sub-clause 3.03\(1\) \(a to j\)](#) or is of a type listed in [sub-clause 3.03\(2\) \(a to i\)](#) the Council will take into account the following:
- (a) The zoning of the land;
  - (b) The proximity to adjoining occupiers;
  - (c) The amenity of the area;
  - (d) The type and additional numbers of animals to be kept;
  - (e) The likely effect on adjoining owners or occupiers;
  - (f) Any objections by adjoining owners or occupiers;
  - (g) The size of the area that the animals are to be kept in;
  - (h) The adequacy of animal shelter ([See clause 3.05](#));
  - (i) The storage of food for the animals from pest and rodents;
  - (j) The collection of excrement/waste and disposal of same;
  - (k) The method of confining animals to the premises;
  - (l) The compliance history of the applicant; and
  - (m) Any other matter relevant to the circumstances associated with the application

### **3.04 Progeny of Animals**

For the purpose of calculating the maximum number of dogs or cats that may be kept under [Clause 3.03](#), the progeny of any dog or cat lawfully kept will be exempt for a period of 12 weeks after their birth.

### **3.05 Domestic Animal Shelter, Maintenance and Food storage**

- (1) A person keeping a dog or cat must provide shelter for them that is reasonable and appropriate for the type of animal being kept.
- (2) All shelters referred to in [sub-clause 3.05\(1\)](#) must be maintained so that a nuisance or offensive condition is not caused to adjoining properties by:
- (a) excrement and other waste on the land;
  - (b) a failure to keep putrescible food and similar materials in fly and vermin proof containers;
  - (c) inadequate drainage of the land;
  - (d) allowing grass, weeds, refuse, rubbish and other material to build up within 3 metres of the animal shelter;
  - (e) a failure to keep the animal shelter and the land in a clean and sanitary condition; or
  - (f) so as to not allow any noise or smell to emanate from the animal to the satisfaction of Council or an Authorised Officer.

- (3) In determining what may be a reasonable shelter, consideration should be given to:
  - (a) the type of animals to be kept;
  - (b) the height of the shelter;
  - (c) the location of the shelter having regard to the amenity of the area;
  - (d) the size of the shelter in terms of the animal to be housed in it;
  - (e) the security of the shelter in terms of the animals to be housed in it; and
  - (f) any other matter or issue pertaining to the shelter considered to be relevant
- (4) For the purposes of [sub-clause 3.05\(1\), \(2\) and \(3\)](#) “**animal**” means: a dog or cat that is registerable under the *Domestic Animals Act 1994* as amended from time to time.

### **3.06 Noise**

- (1) The owner or occupier of any land must not keep or allow to be kept on such land any animal which habitually makes an objectionable noise which can be heard outside the boundaries of the land where the animal is kept.
- (2) For the purposes of [sub-clause 3.06\(1\)](#), “objectionable noise” means any noise made by any animal which unreasonably interferes with or annoys any other person who does not occupy the land where the noise emanates from regardless of whether the noise emanates during the day or night.
- (3) For the purposes of [sub-clause 3.06\(1\)](#) the Council must not issue any Infringement Notice or summons relative to a breach of [sub-clause 3.06\(1\)](#) unless :-
  - (a) it is in receipt of a written statement of complaint made by at least 2 independent land owners or occupiers who do not own or occupy the same land and who are the subject of a complaint pursuant to [sub-clause 3.06\(1\)](#); and
  - (b) after receiving such written statements of complaint, the Council has offered the parties to the complaint, the opportunity to attend a mediation session.

### **3.07 Removal of European Wasps**

An owner or occupier of land must destroy a European wasp nest found on that land once that person has become aware of its existence.

### **3.08 Control of Dogs and Cats in Certain Areas**

#### **(a) Control of Dogs**

- (1) Any person in control of a dog must ensure that at all times the dog is under control by means of a chain, cord or leash while the dog is on a road, street, or public place in those areas designated by Council by resolution to be dog on leash areas.

- (2) Any person in control of a dog must ensure that it does not enter an area designated by Council by resolution to be an area where dogs are prohibited.
- (3) Council may by resolution remove or add to the designated areas where dogs are permitted off leash or are required to be on leash or are prohibited.
- (4) A person in control of a dog at large in an off leash area shall ensure that at all times the dog is in effective control by the owner, or person in control of the dog who must:
  - (a) bring the dog under effective control promptly if the dog behaves in a manner which threatens any person or animal;
  - (b) remain in effective voice or hand control of the dog so as to bring the dog under effective control by placing the dog on a chain, cord or leash if that becomes necessary; and
  - (c) not allow the dog to worry or threaten any person or animal.
- (5) Any person in control of a dog must be a person physically capable of controlling the dog and preventing it from being a nuisance or a danger to other persons.

(b) Control of Cats

- (1) The owner of any cat must confine the cat to the owner's property, either within the dwelling or within another escape proof building between the hours of 7.00pm and 7.00am the following day.

## **PART 4 - ROADS AND COUNCIL LAND**

### **4.01 Interference with Water Course**

Without a permit a person must not destroy, damage, interfere with, place, or allow any object to remain in a water course, ditch, creek, creek bed, gutter, tunnel, bridge, levee, pond, lake or culvert which is situated in or on Council land or in or on a public place.

### **4.02 Trees and Plants on Council Land**

- (1) Without a permit a person must not destroy, damage, cut, interfere with or permit another person without a permit to destroy, damage, cut or interfere with, any tree, plant or vegetation situated upon Council land or public place.
- (2) Without a permit a person must not plant, propagate or establish or permit another person to plant, propagate or establish any plant, tree or any vegetation upon Council land or public place.
- (3) If any plant, tree or any other vegetation is found by an Authorised Officer in contravention of [sub-clause 4.02\(2\)](#), the Authorised Officer may dig, remove impound or destroy such plant, tree or vegetation.
- (4) The provision of sub-clause 4.02(1) and 4.02(2) do not apply to the cutting, propagation or establishment of grass in existing lawn and grassed areas on Council land or public place.

### **4.03 Defacing Council Land**

- (1) Without a permit a person must not:-
  - (a) destroy, damage, plough, cultivate or interfere with any Council land or public place;
  - (b) destroy, damage, interfere with, remove, deface, paint or write on anything which is permanently placed upon Council land or a public place;
  - (c) drive or ride any vehicle on any Council land or public place other than on a formed road or track designated by the Council for that purpose and which has been formed and maintained by the Council;  
or
  - (d) place or install any object or structure whatsoever on Council land, any road or public place.

### **4.04 Materials and Substances Leaving Private Land**

The owner or occupier of private land must not cause, permit or allow the discharge of any water, mud, sludge or other material from that land onto any road, public place or adjacent private land other than at a point approved by Council.

#### **4.05 Use of Council Land**

- (1) Without a permit a person must not use any Council land or public place, or allow, instruct or permit another person without a permit to use any Council land or public place, for the storage of any :-
  - (a) goods;
  - (b) materials;
  - (c) machinery;
  - (d) implement;
  - (e) vehicle;
  - (f) boat;
  - (g) refuse; or
  - (h) fodder.
- (2) Without a permit a person must not leave any goods, materials or items on Council land, a road or a public place for the purposes of sale or to give away without money being paid for such goods, materials or items.

#### **4.06 Leaving Vehicles on Roads and Public Places for the Purposes of Sale**

- (1) Without a permit the owner of a vehicle or boat or any other person must not without a permit leave such vehicle or boat on Council land, a road or public place for the purposes of sale.
- (2) For the purposes of [sub-clause 4.06\(1\)](#), the “owner of a vehicle or boat” means :-
  - (a) the actual owner; or
  - (b) the person whose name appears on records kept by the Roads Corporation or any Federal or other State’s corresponding Registration Authority having the responsibility for the registration and keeping of registration details pertaining to vehicles and boats.

#### **4.07 Waste Management Facilities**

- (1) Without first paying the prescribed fee, a person must not deposit any material whatsoever in or upon a Council Waste Management Facility.
- (2) The fees to be applied in respect to [sub-clause 4.07\(1\)](#) will be those determined by the Council from time to time.
- (3) A person whilst upon a Council Waste Management Facility must comply with a direction given by a member of Council staff or a Council contractor.
- (4) A person must not dispose of any waste material at a Waste Management Facility in an area not designated for that purpose.



- (5) Notwithstanding [sub-clause 4.07\(4\)](#), except in an area or container prescribed for that purpose by Council at a Council Waste Management Facility, a person must not dispose of in general waste any :-
- (a) paint;
  - (b) asbestos
  - (b) oil;
  - (c) acid;
  - (d) thinners;
  - (e) caustic substances;
  - (f) poison; or
  - (g) cooking oil or fats.
- (6) Without a permit or authorisation a person must not:
- (a) remove any material, substance or thing from a Council Waste Management Facility once such material, substance or thing has been deposited at such Facility; or
  - (b) scavenge, interfere with any thing or dig in or upon a Council Waste Management Facility; or
  - (c) break open any container, carton, box or bag that has been previously deposited at the Facility.
- (7) For the purposes of [Clause 4.07](#) Council Waste Management Facility means a :-
- (a) landfill;
  - (b) transfer station;
  - (c) recycle centre; or
  - (d) tip.

#### **4.08 Trees or Plants Causing Damage, Interference or Obstruction**

- (1) The owner or occupier of any land must not permit any vegetation located on the land to grow in a manner that obstructs the clear view:
- (a) by a driver of any:
    - (i) pedestrian;
    - (ii) vehicle
    - (iii) street sign; or
    - (iv) traffic control item
- or
- (b) by a pedestrian, of any:
    - (i) vehicle;
    - (ii) street sign; or
    - (iii) traffic control item.
- (2) An owner or occupier of any land must not permit vegetation on that land to overhang any Council controlled road at a height of less than 2.5 metres from the surface of the road
- (3) A person must not allow any tree or plant in, or growing on, land owned or occupied by him or her to obstruct or interfere with the passage of traffic, including pedestrians.

- (4) Council may require, by notice in writing, the owner or occupier of land from which any tree or plant is causing damage to or interference with a road or Council land to undertake works on his or her land, or on the adjacent road or Council land to ensure compliance.

#### **4.09 Lighting of Fires**

- (1) Without first obtaining a permit a person must not light, use or maintain any fire on a road, on Council Land or in a public place.
- (2) The provisions of [sub-clause 4.09\(1\)](#) shall not apply to any person who lights, uses or maintains a fire in a permanently constructed fireplace or in accordance with any other Act or in a barbecue and such lighting, using or maintaining is not prohibited under the provisions of any other Act.
- (3) The provisions of [sub-clause 4.09\(1\)](#) shall not apply to:-
  - (a) a member of Council Staff;
  - (b) an Authorised Officer;
  - (c) an Officer of a Public Body or Statutory Body; or
  - (d) a Contractor carrying out works on behalf of the Council;

while such Staff Member, Authorised Officer, Public Body Officer, Statutory Body Officer or Contractor is acting in accordance with his or her duty.

#### **4.10 Placing of Signs, Posts and Mail Boxes**

A person must not place any sign, post or mail box in such a way that it causes an obstruction or interference with the passage of traffic, including pedestrians.

#### **4.11 Property Numbers to be Displayed**

- (1) For each property that has been allocated a property number by Council, the owner or occupier of that property must mark the property with the number allocated.
- (2) The property number must be clearly visible from the public realm.

#### **4.12 Permanent Vehicle Crossings**

- (1) The owner of land must ensure that each point of vehicular access from the land to the adjacent road including access from the road to the land has a vehicle crossing constructed to facilitate the access from and to the land from any adjoining road.
- (2) The owner of land must ensure that any vehicle crossing referred to in [sub-clause 4.12\(1\)](#) shall adequately protect any road, footpath, nature strip, drain, service, culvert or kerb which is adjacent to such land.

- (3) Any crossing referred to in [sub-clause 4.12\(1\)](#) and [sub-clause 4.12\(2\)](#) must be :-
  - (a) constructed and maintained in accordance with the Council's Standard Drawings as described in Schedule 25 in the List of Schedules incorporated as a document to this Local Law as amended from time to time; and
  - (b) not constructed unless a permit has been granted by the Council.
- (4) The owner of land who fails to comply with the provisions of [sub-clause 4.12\(1\)](#) or [sub-clause 4.12\(2\)](#) shall be guilty of an offence under this Local Law.

#### **4.13 Shopping Trolleys**

- (1) A person must not leave or allow to be left any shopping trolley in any public place or upon any vacant private land, except in an area set aside for the purpose of storing and retention of shopping trolleys.
- (2) The owner of any shopping trolley on becoming aware of a shopping trolley being present in an area other than one set aside for the purpose of storing and retention of shopping trolleys, must remove such shopping trolley or trolleys as the case requires from the public place or vacant public land and convey the trolley or trolleys as the case requires to an area set aside for the storage and retention of such trolleys.

#### **4.14 Wheeled Recreation Devices**

- (1) The Council may designate by resolution areas where Wheeled Recreation Devices must not be used.
- (2) A person must not use a Wheeled Recreation Device in an area designated by Council Resolution to be an area where the use of such Wheeled Recreation Device is prohibited. (Schedule 3 in the List of Schedules incorporated as a document to this Local Law as amended from time to time).

#### **4.15 Riding Horses on Footpaths and Nature Strips**

Without a permit, a person must not ride or lead or cause another person to ride or lead a horse upon a footpath, nature strip or reservation on a road in a built-up area.

#### **4.16 Notice to Provide Effective Fencing**

- (1) The owner or occupier of any land that is used to graze, agist or keep any livestock must ensure that all fencing and gates pertaining to such land are sufficient and adequate to prevent all livestock present on such land from leaving the land and entering upon a road or a public place.
- (2) An Authorised Officer may issue to the owner or occupier of land referred to in [sub-clause 4.16\(1\)](#) a written Notice to Comply (Schedule 5 in the List of Schedules incorporated as a document to this Local Law as amended from time to time) instructing the owner or occupier as the case requires to do some or all of the following within the time specified in the Notice:-

- (a) repair any fence or gate;
- (b) modify any fence or gate;
- (c) replace any fence or gate; or
- (d) remove all or some of the livestock from the land until the repairs, modifications or replacement have been carried out to the satisfaction of the Authorised Officer.

#### **4.17 Droving of Livestock**

- (1) The owner of livestock or a person authorised by such owner or any other person must not without a permit (Schedule 27B in the List of Schedules incorporated as a document to this Local Law as amended from time to time) drive any livestock or cause, permit or authorise the droving of livestock on any road or public place.
- (2) When considering an application for a permit to drive stock, which must be in the form of Schedule 27A in the List of Schedules incorporated as a document to this Local Law as amended from time to time, Council must comply with Council's "Guidelines for Droving of Livestock" (Schedule 27 in the List of Schedules incorporated as a document to this Local Law as amended from time to time) before a permit can be issued.
- (3) The provisions of [sub-clause 4.17\(1\)](#) shall not apply if livestock are being driven:-
  - (a) so as to re-locate them in the case of an emergency;
  - (b) under the direction of an Authorised Officer; or
  - (c) in accordance with the provisions of [clause 4.18](#).
- (4) The owner of livestock or a person authorised by such owner or any other person who drives livestock on any road or public place without a permit or otherwise not in accordance with the conditions of such permit shall be guilty of an offence under this Local Law.

#### **4.18 Grazing of Livestock on Roads and Public Places**

- (1) The owner of livestock or a person authorised or acting for such owner or any other person must not graze any livestock on any road, road reserve or public place without a permit (Schedule 28B in the List of Schedules incorporated as a document to this Local Law as amended from time to time).
- (2) When considering an application for a permit to graze stock, which must be in the form of Schedule 28A in the List of Schedules incorporated as a document to this Local Law as amended from time to time, Council must comply with Council's "Guidelines for Grazing of Livestock" (Schedule 28 in the List of Schedules incorporated as a document to this Local Law as amended from time to time), before a permit can be issued.
- (3) The owner of livestock or a person authorised or acting for such owner or any other person who grazes any livestock on a road reserve or public place without a permit or otherwise not in accordance with any conditions attached to such permit shall be guilty of an offence against this Local Law.

## 4.19 Movement of Livestock

- (1) A person who owns or is in charge of livestock must ensure that, during the regular routine movement of livestock between 2 or more pieces of land forming the same farming enterprise, the livestock are moved in accordance with the provisions of Schedule 26 in the List of Schedules incorporated as a document to this Local Law as amended from time to time.
- (2) A person who wishes to drive and/or graze livestock on a road or public place contrary to [sub-clause 4.17\(1\)](#) or [sub-clause 4.18\(1\)](#) must obtain a permit subject to [clause 4.17](#) or [clause 4.18](#) as the case requires.

## 4.20 Livestock at Large

- (1) The owner of any livestock or a person authorised by the owner or acting on behalf of such owner shall be guilty of an offence under the Local Law if livestock are found at large upon a road, road reserve or public place.
- (2) For the purposes of [clause 4.20\(1\)](#) “**found at large**” means “not under effective control or wandering without any constraints.”

## 4.21 Advertising Signs Placed on Buildings and Vehicles

- (1) The owner of a commercial, industrial or business premises or any person who manages such premises on behalf of the owner must not operate or permit the operation of any flashing lights from such premises.
- (2) Without a permit the owner of a commercial, industrial or business premises or any person who manages such premises on behalf of the owner or any other person or organisation must not place, fix or attach any banner to any Council owned or controlled property, tree, street furniture or similar Council owned or controlled item or permit the placing, fixing or attaching of such banner to any Council owned or controlled property, tree, street furniture or similar Council owned or controlled item as the case requires.
- (3) The owner of any vehicle must not place or permit the placement of any banner or self-resting sign, which is not an integral part of the construction of the vehicle, on the vehicle whilst such vehicle is on a road or public place.
- (4) For the purposes of [sub-clause 4.21\(3\)](#) “**vehicle is on a road**” means “a vehicle which is either parked, stopped or is moving”.

## 4.22 Sale of Goods from Roads and Public Places

- (1) Any person, owner of any premises or any other person who manages the premises must not without a permit nor otherwise than in accordance with the conditions of such permit; place, permit or cause to be placed on any road; footpath; or public place any;
  - (a) advertising sign;
  - (b) merchandise or goods;
  - (c) outdoor eating furniture;
  - (d) windbreak or divider;
  - (e) umbrella;
  - (f) banner; or
  - (g) any other structure or thing for the purposes of selling goods or services.
- (2) And such placement is in connection with the premises, shall be guilty of an offence under this Local Law if there is not a current permit in force and issued by the Council in respect to those premises.
- (3) Before a permit can be issued relative to this clause the Council must comply with the provisions of the Council's "*Footpath Trading Policy*" incorporated as a document into this Local Law and/or with Council's "*Itinerant Trading Policy*" incorporated as a document into this Local Law as amended from time to time.
- (4) For the purposes of this clause, outdoor eating furniture includes;
  - (a) tables;
  - (b) chairs;
  - (c) a combination of a table and chairs;
  - (d) benches;
  - (e) umbrellas;
  - (f) windbreaks and dividers;
  - (g) crates;
  - (h) boxes; or
  - (i) other thing or item that is used to place food on or provide temporary seating.
- (5) A person who is the holder of a permit issued under this clause who fails to comply with any conditions set out in the permit or the documents referred to in [sub-clause 4.22\(3\)](#) as the case requires, shall be guilty of an offence under this Local Law.

## 4.23 Bulk Rubbish Containers / Clothing Containers on Roads

No person may without a permit place or cause or permit another person to place a bulk rubbish container or bulk clothing container on a road or public place.

#### **4.24 Occupation of the Road**

A person other than a service authority, must not, on a road or any other land under the control of the Council, without a permit:-

- (a) occupy or fence any part of a road;
- (b) erect a hoarding or overhead protective awning;
- (c) use a mobile crane or travel tower for any building work;
- (d) make a hole or excavation;
- (e) reinstate a hole or excavation;
- (f) erect scaffolding or store building materials;
- (g) carry out any works;
- (h) drive any vehicle except on a road or track formed and maintained by the Council for the purpose of driving or riding of vehicles; or
- (i) leave any vehicle, boat or machinery on any Council land.

#### **4.25 Reinstatement Works**

- (1) The reinstatement of any part of a road damaged or affected by works of a type listed in [sub-clause 4.24](#) must be carried out in accordance with any conditions contained in the permit.
- (2) The fees to be applied in respect of reinstatement works will be those determined by the Council from time to time.

#### **4.26 Repair of Vehicles**

A person must not carry out repairs or do any work of any kind to a vehicle on a road, except to enable the vehicle to be removed from the road.

#### **4.27 Removal of Substances deposited from Vehicles.**

A person must not permit any grease, oil, mud, clay, cement, concrete, sludge, soil, dust, animal manure, excrement or other material to fall or run off from or out of any vehicle, onto a road, drain or public place.

#### **4.28 Street Festivals and Processions**

- (1) A person must not without a permit hold a street festival, street party, exhibition, display, stall, procession or barbecue on a road or footpath.
- (2) A person must not without a permit hold any wedding, market, display, athletic event, or other public event on a road, footpath, Council land, Council managed land or a public place.

#### **4.29 Collections on Roads**

- (1) Without a permit a person must not solicit or collect any gifts of money, or subscriptions from a footpath or from any road or road related area or cause or authorise another person to do so.
- (2) A person must not, without a permit, busk on any road or Council owned or managed land with the object or apparent object of collecting money.

- (3) A permit issued for busking must contain conditions that:
  - (a) Sound amplification equipment may only be used subject to any requirements of Council as to sound volume;
  - (b) No permit may be issued for longer than six months but that a renewal may be applied for after that time;
  - (c) Council reserves the right to revoke the permit at any time;
  - (d) No permit holder may sell or offer or expose for sale any article or commodity other than related or ancillary to the busking activity;
  - (e) Any drawings, sketches, artwork made on any footpath must be limited to the use of easily erasable non-permanent medium such as chalk or charcoal and must not be crayon, paint or any other permanent or marking medium;
  - (f) The busker must comply with all the directions of the Victoria Police or an Authorised Officer which might include ceasing busking or moving from the busking location where congestion or inconvenience is being caused to other road users; and
  - (g) That no busker may advertise or associate his or her busking with advertising in conjunction with any performance.
  - (h) A person issued a permit must comply with any conditions imposed
- (4) In determining whether to grant a permit to busk, Council must take into account whether:
  - (a) any undue obstruction will be caused to pedestrians or traffic in the area specified; and
  - (b) any interference will be caused in relation to other approved activities in the area specified.

#### **4.30 Temporary Road Closures**

A person must not, without a permit, close or obstruct any road or public place under the control or management of Council.

#### **4.31 Temporary Electric Fences**

- (1) A person must not, without a permit, erect an electric fence on any Council controlled road reserve or public place.
- (2) A person must not erect an electric fence on any private land in a built up area.
- (3) A person erecting an electric fence must ensure that it is adequately signed so that people know that it is electrified.

#### **4.32 Fences and Gates on Council Land, Roads or Road Reserves**

A person must not, without a permit, erect any fence or gate on any Council land, road or road reserve.

#### **4.33 Unregistered and Abandoned Vehicles & Boats**

- (1) The owner or any other person must not leave on any road or public place any vehicle or boat which is :-
  - (a) unregistered; or



- (b) has been abandoned.
- (2) For the purposes of [sub-clause 4.33\(1\)](#) “owner” means:
  - (a) “The person whose name appears in records kept by the Roads Corporation or any Federal or other State’s corresponding vehicle or Boat registration authority”; or
  - (b) “the last registered owner ascertained in accordance with [sub-clause 4.33\(2\)\(a\)](#); or
  - (c) the actual owner.
- (3) An Authorised Officer may remove and impound any vehicle or boat which has been left in contravention of [sub-clause 4.33\(1\)](#).

#### **4.34 Alcohol**

- (1) Without a permit, a person must not consume, or have in his or her possession, in an unsealed container, any alcohol in or on any public place declared by resolution of Council (Schedule 4 in the List of Schedules incorporated as a document to this Local Law as amended from time to time) unless the public place is a licensed premises or authorised premises under the *Liquor Control Reform Act 1998* as amended from time to time.
- (2) Any member of Victoria Police may enforce the provisions of this section under Section 224A of the *Local Government Act 1989*.

#### **4.35 Smoking**

- (1) The Council may by resolution declare a municipal place or part of a municipal place to be a smoke free area.
- (2) The Council in any municipal place or part of a municipal place which has been declared a smoke free area must erect signs notifying users of those facts.
- (3) No person may smoke in or on any municipal place or part of a municipal place which has been declared by the Council to be a smoke free area.

#### **4.36 Regulating Marine Facilities and Activities**

- (1) A person must not dive from or jump off any jetty, marina or other like structure into the water within the bounds of the Portland Marina.
- (2) A person must not swim within 20 metres of any vessel moored at the Portland Marina.
- (3) A person must not throw fish waste into the water but place it in the bins provided for that purpose.

#### **4.37 Remote controlled Aircraft, Boats and Cars**

A person must not fly or operate a remote controlled aircraft, drone, boat or car in a manner which may cause or be likely to cause injury or discomfort to a

person being on or in the vicinity of a municipal place or detract from or be likely to detract from another person's lawful use of and enjoyment of the municipal place.

#### **4.38 Restriction on Use of Public Waste Bins**

- (1) The owner or occupier of premises must not place or deposit any garbage, recyclables, green waste, or other waste material of any kind which has been generated in or from that premises in a public waste bin.
- (2) The owner or occupier of a premises must not instruct, or direct any staff to place or deposit any garbage, recyclables, green waste, or other waste material of any kind which has been generated in or from that premises, in a public waste bin.
- (3) A person must not deposit into a public waste bin designated for uncooked fish, fish heads, entrails, general fishing waste any commercial or household garbage, recyclable, green waste or other waste material of any kind.
- (4) A person must not deposit any household garbage, recyclables, green waste or other waste material from home in a public waste bin.

## **PART 5 – PROTECTION OF COUNCIL ASSETS AND CONTROL OF BUILDING SITES**

The purpose of this local law is to protect any assets vested in, controlled or owned by Council.

It establishes a procedure of obtaining Council consent (by way of an Asset Protection permit), as a means of regulating building work which may damage assets or cause environmental hazards and / or damage.

It ensures the safety of persons, adjacent to, opposite, or passing a building site.

### **5.01 Asset Protection Permit**

- (1) An owner, builder, or appointed agent must not commence any building work, including the delivery of any equipment or building materials to a building site, without having an Asset Protection Permit issued in respect of the land where the building work is to be carried out, unless Council or an Authorised Officer determines the works constitute 'minor building work'.
- (2) All building work which requires a building permit where Council assets exist in the vicinity of the work, also requires an Asset Protection Permit unless Council or an Authorised Officer determines the works constitute 'minor building work'.
- (3) For Council or an Authorised Officer to issue an Asset Protection Permit, the owner, builder or appointed agent must, at least 10 working days prior to the commencement of any building work:
  - (a) notify Council, in writing, of the proposed building work by completing an application form in the form of Schedule 24 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, regardless of whether a building permit has been issued; and
  - (b) advise Council in writing, including by supplying photos or other suitable record, of any prior damage to any road (including road reserve, footpath or nature strip), or any other Council asset; and
  - (c) pay any non-refundable permit fee determined by Council; and
  - (d) pay any security bond determined by Council or an Authorised Officer.
- (4) If an application form for an Asset Protection Permit does not include a statement and photos in accordance with [clause 5.02\(2\)\(b\)](#) of this Local Law, it is presumed that there was no pre-existing damage prior to the building work taking place.
- (5) An Asset Protection Permit may be issued subject to such conditions as Council or an Authorised Officer determines.
- (6) The owner, builder or appointed agent must comply with any conditions on an Asset Protection Permit.

- (7) An Asset Protection Permit expires 24 months after the date of its issue, unless it is renewed.

## 5.02 Fees & Bonds

- (1) The fee to be applied in respect to an Asset Protection Permit in sub-clause [5.02\(3\)\(c\)](#) will (shall) be:-
- (a) that fee determined by Council from time to time and listed in the Glenelg Shire Council Fees and Charges Schedule;
  - (b) non-refundable, and may be used to cover administration and inspection costs.
- (2) The Asset Protection Permit fee may be 'waived' subject to:
- (a) a risk assessment conducted by Council or an Authorised Officer resulting in the classification of work being determined as 'low risk' as per risk assessment tool; and
  - (b) the builder, owner or appointed agent completing and submitting the following documentation to the satisfaction of Council or an Authorised Officer before any building work commences or prior to the delivery of any materials and equipment to the building site:
    - (i) an Asset Protection Permit application form;
    - (ii) an inspection damage report;
    - (iii) submission of photographic evidence which clearly outlines the condition of Council assets.
- (3) The security bond to be applied in respect to [sub-clause 5.02\(3\)\(b\)](#) shall be:-
- (a) compulsory, unless:
    - (i) a fee waiver has been granted, for any building work requiring an Asset Protection Permit;
    - (ii) the cost of building work comprise a monetary value less than \$20,000;
    - (iii) the building work does not comprise the construction or removal of fencing on a boundary to a public place; demolition of a structure or building; building removal; and excavation or construction of swimming pools; and
    - (iv) where Council or an Authorised Officer has determined that the proposed building work present 'low risk' of damage to Council assets.
  - (b) payable prior to the commencement of any building works which have the potential to damage Council assets.
  - (c) the amount as determined by Council from time to time and listed in the Glenelg Shire Council Fees and Charges Schedule.



## 5.04 Notices to Comply/Directions

- (1) An Authorised Officer may serve a Notice to Comply on any person who breaches this Local Law instructing them to remedy that breach.
- (2) When a Notice to Comply is not complied with, Council can undertake any works required to remedy the breach, with any costs incurred by Council to be borne by the holder of the Asset Protection Permit.
- (3) A person must remedy any breach of this Local Law in accordance with all requirements of a Notice to Comply.
- (4) A person must comply with any reasonable direction, instruction or signal of an Authorised Officer lawfully given in connection with this Local Law.

## 5.05 Power to Act in Urgent Circumstances

- (1) Council or an Authorised Officer may, where an owner, builder, appointed agent or supplier has failed to comply with any requirement of this Local Law, take any action it considers necessary to prevent any danger to the environment or any nuisance arising, provided that :-
  - (a) an Authorised Officer considers the circumstances to be sufficiently urgent and that the time necessary to serve, or potential difficulty in serving, a Notice to Comply may place a person, animal, property or the environment at risk or in danger of substantial detrimental effect; and
  - (b) the Chief Executive of the Council or his or her delegate (not being the Authorised Officer administering this clause) approves of the proposed action.
- (2) Actions approved under [clause 5.05\(1\)](#) must not extend beyond what is necessary to cause the immediate abatement or minimisation of the risk or danger involved
- (3) Council will issue a Notice of Urgent Works, in the form of Schedule 23 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, to the owner, builder, appointed agent or supplier prior to the urgent works being undertaken where practicable to do so, or within 1 business day.

## 5.06 Environmental Protection

- (1) Where any building work is being carried out, the owner, builder or appointed agent must ensure that the building 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 in accordance with currently accepted best practice by adopting measures to :-
  - (a) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting roads; and

- (b) prevent building cleanup, wash down or other wastes (including excess concrete or runoff from washing out concrete delivery trucks) or builders' refuse being discharged or allowed to enter the stormwater system.
- (2) Where any building work is being carried out, the owner, builder or appointed agent must :-
- (a) provide a facility for the purpose of disposal of builders' refuse, in which case provided the facility contains all builders' refuse and is approved by an Authorised Officer, its size, design and construction will be at the discretion of the owner, builder or appointed agent; and
  - (b) place the facility on the building site land and keep it in place (except for such periods as are necessary to empty the facility) for the duration of the building work; and
  - (c) not place the facility on any Council controlled land, public place or road without a permit; and
  - (d) empty the facility whenever full and, if necessary, provide a replacement facility during the emptying process; and
  - (e) ensure that all builders' refuse which requires containment is placed in the facility; and
  - (f) ensure that builders' refuse is not deposited in or on any land of another owner, public place or road; and
  - (g) remove and lawfully dispose of all refuse generated by the building work including, without limitation, the builders' refuse in the facility referred to above, within 5 business days of completion of the building work or issue of an occupancy permit, whichever occurs last; and
  - (h) ensure that the driver of any vehicle involved in placing or removing a facility for contained builders' refuse must access the building site by way of temporary vehicle crossing unless otherwise permitted in accordance with a permit.
- (3) The requirement to provide a facility may be waived at the discretion of an Authorised Officer.
- (4) The owner, builder or appointed agent must not undertake or carry on any building work necessitating the employment or engagement of persons on a building site unless a sewerer toilet or closed portable toilet system is provided for the use of the persons on that site and serviced as required and approved to the satisfaction of an Authorised Officer.
- (5) Notwithstanding [sub-clause 5.06\(4\)](#), where buildings are being constructed on an adjacent site simultaneously by the same owner, builder or appointed agent, Council may at its discretion allow the use of a sewerer toilet or closed portable toilet system on the adjacent site to serve up to two adjoining sites, without an offence arising.

## **PART 6 – ADMINISTRATION**

### **6.01 Permits**

Council or an Authorised Officer in its, his or her absolute discretion may issue a permit under this Local Law with or without conditions as listed on the form of the Schedules 8 to 23 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, including the payment of any fee Council may require, or may refuse to issue the same.

- (1) Unless otherwise required in this Local Law, an application for a permit under this Local Law must be in writing and accompanied by the appropriate fee as prescribed by Council from time to time.
- (2) Council may require an applicant to supply additional information or to give public notice of the application.
- (3) Unless otherwise required in this Local Law a permit issued by Council shall be in the form of Schedule 8A in the List of Schedules incorporated as a document to this Local Law as amended from time to time.
- (4) Council may at its discretion exempt in writing any person or class of person from the need for a permit or the payment of a permit fee.
- (5) Council must keep a register of permits.
- (6) A permit expires on the date specified in the permit or if no such date is specified the permit will expire 1 year after the date of issue
- (7) Where Council or an Authorised Officer is of the opinion that there is or has been a breach of any condition of a permit, it, he or she may serve a Notice to Comply on the permit holder.

### **6.02 Considering Applications**

In considering an application for a permit, Council or an Authorised Officer may consider any:

- (1) Policy or guidelines adopted by Council relating to the subject matter of the application for the permit;
- (2) Submissions received in respect of the application;
- (3) Comments that may be made in respect of the application by any public body, community organisation or other person;
- (4) Relevant Codes of Practice or Australian Standards; and
- (5) Other relevant matters.



### **6.03 Correction of Permits**

Council or an Authorised Officer may correct a permit if the permit contains:

- (1) a clerical mistake or an error arising from any accident, slip or omission; or
- (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.
- (3) Council or the Authorised Officer must note the correction in the register of permits.

### **6.04 Grounds for Cancellation of or Amendment of Permits.**

- (1) Council or an Authorised Officer may cancel or amend any permit if it has been considered that there has been:
  - (a) a material mis-statement or concealment of fact(s) in relation to the application for the permit;
  - (b) any material mistake in relation to the issue of a permit;
  - (c) any material change of circumstances which has occurred since the issue of the permit;
  - (d) a failure to comply with the conditions under which the permit was issued; or
  - (e) a failure to comply within the time specified in any Notice to Comply.
- (2) Council or the Authorised Officer must notify the holder of a permit of Council's or the Authorised Officer's intention to amend or cancel the permit and give the holder of that permit an opportunity to make a written submission before the permit is amended or cancelled.
- (3) If Council or the Authorised Officer, after considering any written submission made by the permit holder, determines to cancel or amend the permit, Council or the Authorised Officer must note that cancellation or amendment in the register of permits.

## PART 7 - ENFORCEMENT

### 7.01 Offences

A person is guilty of an offence if the person :-

- (1) does something that a provision of this Local Law prohibits to be done;
- (2) fails to do something that a provision of this Local Law requires to be done;
- (3) engages in activity without a current permit where a provision of this Local Law requires that a person obtain a permit before engaging in that activity;
- (4) breaches or fails to comply with a condition of a permit issued under this Local Law;
- (5) contravenes or fails to comply with a Notice to Comply issued under this Local Law within the time specified in the Notice; or
- (6) fails to comply with any sign erected by Council in a public place.

### 7.02 Infringement Notice

- (1) Where an Authorised Officer reasonably believes that a person has committed an offence against this Local Law, the officer may issue to that person an infringement notice, in a form approved by Council and described in Schedule 7 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, as an alternative to a prosecution for the offence
- (2) A person to whom an infringement notice has been issued must, subject to the provisions of the *Infringements Act 2016* as amended from time to time, pay to Council the amount specified in the notice within 28 days.
- (3) The penalty fixed for an infringement notice shall be
  - (a) the applicable penalty stated in Schedule 7A in the List of Schedules incorporated as a document to this Local Law as amended from time to time; or
  - (b) 2 penalty units if no applicable penalty is stated in Schedule 7A to this Local Law.

### 7.03 Notice to Comply

- (1) Unless otherwise allowed for in this Local Law, where there has been a failure to comply with the provisions of this Local Law or a contravention of any conditions of a permit issued under this Local Law, an Authorised Officer may serve a Notice to Comply as shown in Schedule 5 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, on the person failing to comply or the permit holder.

- (2) Any person who fails to remedy a thing in accordance with a Notice to Comply within the time specified is guilty of an offence under this Local Law.

## **7.04 Impounding and Removal of Obstructions**

- (1) An Authorised Officer may impound :-
  - (a) any vehicle or vessel and any chattels attached to such vehicle or vessel, or contained within it which is stopped on a road or public place in such a manner that the vehicle or vessel causes an unlawful obstruction or is illegally stopped; or
  - (b) any item that encroaches or obstructs a road or public place.
- (2) If an Authorised Officer impounds any vehicle or vessel, or other item referred to in [sub-clause 7.04\(1\)\(a\)](#) or [sub-clause 7.04\(1\)\(b\)](#), a person must serve on the owner a “Notice of Impounding” which is contained in Schedule 6 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, and in accordance with Section 234 *Local Government Act 1989* or in accordance with the *Port Management Act 1995* as amended from time to time in relation to vessels.
- (3) An Authorised Officer shall release any vehicle or vessel and chattels or item referred to in [sub-clause 7.04\(1\)\(a\)](#) or [sub-clause 7.04\(1\)\(b\)](#) to its lawful owner on payment of a fee determined by Council, or may sell, destroy, dispose of or give away any vehicle or vessel or other item referred to in [sub-clause 7.04\(1\)\(a\)](#) or [sub-clause 7.04\(1\)\(b\)](#) if the owner does not pay the prescribed fee within 7 days of service of a “Notice of Impounding” served under this Local Law.
- (4) The Council is entitled to retain out of the proceeds of sale of impounded vehicles, vessel or items, its reasonable costs incurred in impounding or selling the vehicle, vessel or item.
- (5) An Authorised Officer may seize and impound anything which has been or is being used or possessed in contravention of this Local Law.
  - (a) Where anything has been impounded under this Local Law, Council or an Authorised Officer must, if it is practicable to do so, serve Notice of the Impounding which is contained in Schedule 6 in the List of Schedules incorporated as a document to this Local Law as amended from time to time, and in accordance with Section 234 *Local Government Act 1989*, personally or by mail on the person who appears to be the owner of the impounded thing.
  - (b) An impounded thing must be surrendered to:
    - (i) the owner; or
    - (ii) a person acting on behalf of the owner who provides evidence to the satisfaction of an Authorised Officer of his or her authority from the owner.
- (6) If an impounded thing has not been surrendered to the owner or a person acting on the owner’s behalf within 14 days of the notice of impounding being served or, if no notice of impounding has been served, or the act of impounding, Council may, at its discretion:
  - (a) Sell

- (b) Give away; or
- (c) Destroy

the impounded thing.

## **7.05 Delegation**

In accordance with section 114 of the *Local Government Act 1989*, Council delegates;

- (1) To the Chief Executive Officer, Director Assets, Director Community Services, Director Corporate Services, Manager Compliance & Corporate Information and any person for the time being acting for such person, all the powers, discretions, authorities and considerations of Council under this Local Law including the powers, discretions and authority to issue or refuse permits, fix conditions and durations relevant to such permits, cancel permits, require additional information, apply guidelines or policies of Council, to waive the need for any permit, to waive fix or reduce fees or charges or to do anything necessary or incidental to the exercise of any function or power by the Council; and
- (2) To each Authorised Officer the power to issue or refuse permits and apply conditions, exercise discretions and to require additional information.

## **7.06 Penalties**

A person guilty of an offence under this Local Law is subject to a maximum penalty of 20 penalty units.

## **7.07 Review of Decisions**

- (1) Any person, who feels aggrieved by the service of a Notice to Comply, or the issuing, amendment, or cancellation of a permit, or an infringement notice, issued under this Local Law may apply for a review of that decision.
- (2) Requests for a review must be in writing and contain sufficient details to enable the review panel members to make a determination.
- (3) Such reviews will be conducted in accordance with the provisions of Division 3 of the *Infringements Act 2006* as amended from time to time.

## PART 8 – COUNCIL ADOPTION

**THE COMMON SEAL** of the **GLENELG SHIRE COUNCIL** affixed on this document, and the following confirm that the common seal has been authorised by a Council Resolution dated Tuesday 27<sup>th</sup> day of February, 2018:

\_\_\_\_\_

Councillor

\_\_\_\_\_

Councillor

\_\_\_\_\_

Chief Executive Officer

A notice of the making of this Local Law was included in the Victorian Government Gazette dated the 4 January 2018.

Public Notice of the proposal to make and confirmation for the making of this Local Law were inserted in the Casterton News and the Portland Observer Newspapers on the 27 December 2017 and 5 January 2018, retrospectively.

A copy of this Local Law was sent to the Minister for Local Government on the \_\_\_\_\_.

## PART 9 - CERTIFICATION OF LOCAL LAW

This is to certify that the above writing contained on 46 pages of paper is a true copy of the General Local Law 2018 of the Glenelg Shire Council and that we have informed ourselves of the legislative requirements necessary to giving validity to such General Local Law 2018 and as to our observance and belief that such requirements have been fulfilled.

We further certify that such General Local Law 2018 came into force on the 1 February 2018.

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Councillor

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Councillor

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Chief Executive Officer