MAROONDAH CITY COUNCIL

COMMUNITY LOCAL LAW 2023

Draft

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PART 1 - INTRODUCTION

1.1 Local Law

This Local Law is titled Maroondah City Council Community Local Law 2023.

1.2 Objectives

The objectives of this Local Law are to:

(a) protect the health and safety of persons within the *Municipal District*;
(b) provide for the equitable, orderly and enjoyable use of *council land*, *road*s and *council assets*;
(c) protect, maintain and enhance the natural environment of the *Municipal District*;
(d) provide for the peace, order and good governance of the *Municipal District*;
(e) regulate the management of animals on *land* and on *council land*; and
(f) provide uniform and fair administration of this Local Law.

1.3 Power to make this Local Law

This Local Law is made under section 71 of the *Local Government Act 2020* and section 42 of the *Domestic Animals Act 1994.*

1.4 Commencement Date

This Local Law commences on {INSERT DATE}.

1.5 Revocation and Savings

(1) This Local Law will cease to operate on {INSERT DATE} unless revoked sooner.

(2) On the commencement of this Local Law, Council's Local Law No.11 is revoked, save that any notice or consent given, or any business, matter or thing commenced, made, or done under that Local Law is not affected.

1.6 Application of Local Law

This Local Law operates throughout the *Municipal District* of Maroondah City Council.

1.7 Other Legislation

Anything allowed under any Act, Regulation or Planning Scheme, is not affected by any prohibition, requirement, or restriction under this Local Law.

1.8 Definitions

In this Local Law, words which are not defined will adopt their ordinary meaning, and unless the contrary intention appears, the following words have the meaning given to them, and appear in italics throughout the Local Law:

Act	means the *Local Government Act 2020.*
Advertising Sign	means any placard, board, poster, banner, sign, card, structure or other similar device, whether portable, affixed or attached to, or over any land, building, vehicle or structure, which: a. provides information about a business or industry; b. advertises the sale of goods or hire, a service, and event or a competition; or c. contains information or a promotion of a political nature.
Authorised Officer	means a person appointed by Council under sections 224 or 224A of the *Local Government Act 1989.*
Barbeque	means any structure or device, that is erected or fixed outdoors, portable or mobile which has as its primary purpose, the cooking of food for human consumption.
Building	includes any building or structure, whether temporary or permanent, or any part of a building or structure.
Building Works	means work: a. or activities for or in connection with the construction, demolition, renovation, alteration, or removal of, or to, any building, structure or land; b. for which a permit is required under the *Building Act 1993;* or c. required under any legislation, including this Local Law.
Building Site	includes any land on which *building works* are being undertaken.
Bulk Waste Container	means a bin, skip, or other structure designed or used for holding a substantial quantity of rubbish, or other goods, that is unable to be lifted without mechanical assistance.
Camping	means using a caravan, tent, sleeping bag, *motor vehicle*, motor home, shipping container, shed or like structure for temporary accommodation by a *person* and camp has the corresponding meaning.
Donation Bin	means a bin or similar structure used for the placement of donated items.

Council	means Maroondah City Council.
Council Asset	means any road, drain, drainage infrastructure, swale drain, culvert, tree, plant, road sign or any other property vested in or under the control of Council.
Council Land	means any land (including *council assets* on that land), reserve, building, easement in favour of Council, or road owned, vested in, managed by or under the control of Council, including any building, structure, street sign, street furniture, pole, light, batter, fence, tree or plant situated on that land.
Dangerous	means *land* kept in a manner which is deemed by an *Authorised Officer* to be, or is likely to be, dangerous to life, health or property, including the storage of dangerous or hazardous substances and materials on *land*. This does not apply to any danger to life or property arising from the condition of *vegetation*, including trees on privately owned *land* unless such *vegetation* or trees affect an area other than privately owned *land* which is utilised, accessed or occupied by members of the public.
Derelict	means a building, structure or infrastructure which in the opinion of an *Authorised Officer* is in a state of significant disrepair or has deteriorated as a result of damage, age, neglect, poor maintenance, vandalism or misuse. This may be characterised by a state or condition of a building, structure, or other infrastructure which, in the opinion of an *Authorised Officer*, has: (a) missing, broken or deteriorated exterior cladding; (b) been marked with graffiti; (c) deteriorated guttering or downpipes; (d) broken or missing windows, window-awnings, eave lining or doors; (e) damaged, missing or broken roofing materials; (f) deteriorated internal gates and fences; (g) inadequate or no maintenance; or (h) any other condition in a state of significant disrepair or deterioration which is a detrimental to the amenity and appearance of the surrounding area.
e-cigarette	has the same meaning as “e-cigarette” in the *Tobacco Act 1987.*
Filming	means recording moving images by any means for commercial or other non-personal purposes.

Heavy Vehicle	has the same meaning as “heavy vehicle” in the *Road Safety Act 1986.*
Incinerator	includes a structure, device or contraption (not enclosed in a building) which is used or designed or is capable of being used for the purpose of burning any material.
Incorporated document	means any document, guidelines, policy, plan or code of practice incorporated by reference into this Local Law.
Infringement Notice	means an infringement notice issued under the *Infringements Act 2006.*
Land	includes privately owned land, but excludes *council land*.
Licensed Premises	means any licensed hotel, tavern, bottle shop, bar, nightclub or other premises from which liquor is sold.
Liquor	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.
Long Vehicle	means a vehicle that, together with any load or projection, is 7·5 metres long, or longer.
Mobile garbage bin	means a bin or receptacle supplied by Council for the purposes of waste collection including household waste, organic waste, recyclable materials, or other materials which may be regulated by Council.
Motor Vehicle	has the same meaning as in the *Road Safety Act 1986.*
Municipal District	means the municipal district of Council.
Notice to Comply	means a written direction issued under this Local Law prepared by an *Authorised Officer*.
Noxious Weeds	has the meaning ascribed to it by section 3 of the *Catchment and Land Protection Act 1994.*
Nuisance	includes any behaviour or condition which is dangerous to health, offensive or injurious to personal comfort.
Occupier	means a *person*: a. in charge or having the management or control of *land*, or b. legally entitled to occupy *land* (including premises)

and includes, in relation to *land* which has a lot entitlement or lot liability in respect of common property, the Owners Corporation created on the registration of a Plan of Subdivision affecting that *land*.

Owner	in relation to *land* means the *person*, business, trust or other legal entity that is registered on the Certificate of Title as the owner.
Penalty Unit	has the same meaning as used in the *Sentencing Act 1991.*
Permit	means a permit, required, or issued under this Local Law.
Person	includes a natural person, corporation, an association incorporated under the *Associations Incorporation Reform Act 2012*, partnership and an unincorporated association.
Person in Charge	means: (a) a person in charge of a *building site*; (b) a person who causes *building works* to be carried out on a *building site*; (c) a person who is the holder of a building permit or Council issued permit relating to works being undertaken on a *building site*; or (d) the owner or occupier of the *land* upon which *building works* are being carried out.
Planning Scheme	means the Maroondah Planning Scheme, as approved under the *Planning and Environment Act 1987.*
Poultry	includes chickens, ducks, geese, pheasants, turkeys, and guinea fowl and excludes roosters.
Public Place	has the same meaning as in section 3 of the *Summary Offences Act 1966.*
Reserve	means *council land* which is dedicated or used for outdoor, cultural, environmental, sporting, or recreational purposes and includes sporting reserves, bushland reserves, wetlands, parks and gardens and other like spaces.
Road	has the same meaning as in the *Local Government Act 1989* and includes: a) a street; b) a right of way;

c) any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*;
d) a public road under the *Road Management Act 2004*;
e) a passage;
f) a cul de sac;
g) a by-pass;
h) a bridge or ford;
i) a footpath, bicycle path or nature strip; or
j) any culvert or kerbing or other land or works forming part of the road.

Road Reserve	has the same meaning as used in the *Road Management Act 2004.*
Schedule	means a Schedule to this Local Law.
Site Fencing	means a fence around the perimeter of *land* or a *building site* where *building works* are being undertaken.
Site Identification Sign	means a sign which is at least 600 millimetres in height and 400 millimetres in width, erected at the entrance to a *building site* which is clearly visible from the *road*, and includes the: a) lot and street number on the Certificate of Title relevant to the *land*; and b) name, postal address and 24-hour contact telephone number of the *person in charge*.
Shopping Trolley	means a wheeled container or receptacle supplied by a retailer to enable a *person* to transport goods.
Smoke	has the same meaning as in the *Tobacco Act 1987* and includes the use of *e-cigarette*s.
Smoke Free Area	means an area: a) designated as a Smoke Free Area as shown in *schedule* 2; or b) prescribed to be a Smoke Free Area in accordance with clause 7.1(4).
Tobacco Product	has the same meaning as in the *Tobacco Act 1987.*

Unsightly	includes *land* which contains: (a) excessive waste and waste products; (b) uncontained waste products; (c) overgrowth of *vegetation*; (d) excessive second-hand timber or second-hand building material; (e) discarded, rejected, surplus or abandoned solid or liquid materials; (f) dilapidated structures; (g) graffiti; (h) machinery or machinery parts stored on the *land* for more than 2 months; (i) unregistered, unroadworthy, disassembled, incomplete or deteriorated *motor vehicle*s, caravans, trailers or similar, visibly stored on the *land* for more than 2 months; (j) anything being built which is left incomplete and is detrimental to the amenity of the surrounding area; or (k) any other thing making the *land* visually detrimental to the general amenity of the area, including *land* which is neglected or unsecured.
Vehicle	has the same meaning as in the *Road Safety Road Rules 2017* and includes: (a) a motor vehicle, trailer and tram; (b) a bicycle; (c) an animal-drawn vehicle, and an animal that is being ridden or drawing a vehicle; (d) a combination; and (e) a motorised wheelchair that can travel at over 10 kilometres per hour (on level ground)— but does not include another kind of wheelchair, a train, a wheeled recreational device, a wheeled toy or an electric personal transporter.
Vehicle Crossing	means a Council approved constructed access point between a privately owned property boundary and a *road* in order to facilitate vehicular access to that *land*.
Vegetation	includes trees, grass, shrubs, hedges or other plants, whether dead or alive, standing or not standing, on *land* or in water.
Vermin	includes cockroaches, feral bees, European wasps, rats or any animal which is destructive or a nuisance.
Wheeled Recreational Device	includes scooters (human-powered and low-powered e-scooters), skateboards, roller blades or roller skates. It does not include high-powered e-scooters with a motor output of more than 200 watts, or which are capable of travelling faster than 10 km/h.

PART 2 - COUNCIL LAND AND ROADS

This Part contains provisions which aim to regulate and enhance the safety and orderly use of *council land* and *road*s.

2.1 Behaviour on Council Land and Roads

[Amended]

A *person* must not, on *council land* or on a *road*:

(a) commit or cause any *nuisance* or cause any damage;
(b) act in a manner that threatens, harasses or endangers any *person* or which may interfere with another *person*'s reasonable use and enjoyment;
(c) act contrary to any applicable conditions of use or sign displayed by Council;
(d) act contrary to any lawful direction of an *Authorised Officer* or *person* in charge of a Council facility;
(e) alter, damage, destroy, remove, interfere with, or deface any *council asset*;
(f) enter other than through an entrance provided for that purpose;
(g) organise a function or event unless prior written approval has been obtained from Council;
(h) use or interfere with any lifesaving or emergency device unless during an emergency;
(i) obstruct, hinder or interfere with any *person* employed by, or acting on behalf of Council, including Council contractors and *Authorised Officer*s;
(j) park, drive or ride a vehicle unless the area has been signposted for that purpose;
(k) keep, train or ride an animal unless the land has been designated by Council for that purpose;
(l) undertake any unauthorised building or construction related activities, including building any structures;
(m) enter or remain, while under the adverse influence of alcohol or intoxicating drugs; or
(n) ride a bicycle or use a *wheeled recreational device* unless the area has been designated for that purpose and not in a manner that:
    (i) interferes with another *person*'s use and enjoyment;
    (ii) endangers any other *person*; or
    (iii) causes damage.

2.2 Use of Reserves

[Amended]

(1) A *person* must not, in a *reserve*:

(a) ride or lead a horse, except in areas designated for horse riding or leading;
(b) destroy, deface, defile, damage, remove or interfere with a structure, notice, playing arena, playing surface, seat, tree, plant or land;
(c) camp or pitch, erect or occupy a camp, tent or temporary shelter;
(d) park, ride, drive or use a *vehicle* except in an area designated for that purpose;
(e) light a fire or allow a fire to remain alight unless the fire is a *barbecue;*

(f) engage in playing or practising sports or games or any other organised activity which could be a danger to the safety of a *person* or interfere with the reasonable use and enjoyment of a reserve by another *person*;
(g) engage in, play, or practice golf;
(h) remain in the *reserve* outside the hours that reserve is open; or
(i) act contrary to a lawful direction of an *Authorised Officer* or *person* in charge of the *reserve*, including a direction to leave the *reserve* notwithstanding that a fee or charge for admission may have been paid.

(2) A *person* must not, without a *permit*, in a *reserve*:
(a) park, drive, ride or use a vehicle unless the land has been designated and signposted for that purpose; or
(b) erect, fix or place a sign, advertisement or advertising material for a personal, commercial, charitable, cultural or community purpose.

(3) A *person* must not, without written Council approval, in a *reserve*:
(a) hold a circus, carnival, festival or non-commercial event such as a wedding; or
(b) conduct, organise or participate in a game of sport which is a fixture of any competitive sporting program.

2.3 Gateways to Reserves

An *owner* or *occupier* of *land* abutting a *reserve*, must not without written Council approval, install or maintain a pedestrian gateway which enables access to or from that *land* onto a *reserve*.

2.4 Filming

[New]

A *person* must not, without a *permit*, engage in any *filming* on *council land* or in a *Public Place*.

2.5 Camping on Council Land and in Public Places

A *person* must not, without a *permit* on *council land* or in a *Public Place*:
(a) camp in a tent, *vehicle*, caravan or any other temporary or makeshift accommodation unless in an area prescribed for that purpose; or
(b) erect a tent, caravan or annexe.

2.6 Donation Bins

[New]

(1) A *person* must not, without a *permit*, place or cause to be placed a *donation bin* on *council land* or on a *road*.

(2) A *donation bin* placed in a *Public Place* must be maintained, by the *owner* of that *donation bin*, in a clean and sanitary condition.

2.7 Shopping Trolleys

(1) A *person* must not leave a *shopping trolley* other than in an area designated for collection.

(2) The *owner* of a shopping trolley must ensure that their trading name is clearly marked on the *shopping trolley*.

(3) Where an *owner* provides more than 25 *shopping trolley*s, the *owner* must:
a) ensure that the *shopping trolley*s are fitted with either a functioning coin deposit and release mechanism or an alternate, locking mechanism approved by Council;
b) demonstrate to Council's satisfaction that they have a regular collection system in place; and
c) comply with a direction given by an *Authorised Officer* to collect any *shopping trolley*s left in an undesignated collection area within 24 hours.

(4) Where an *owner* is served with a Notice of Impoundment, the *owner* must collect any impounded *shopping trolley*s within the time specified in that Notice.

(5) Council may exempt an *owner* from the application of sub-clause 2.7(3).

2.8 Items on Council Land and Roads

(1) A *person* must not, without a *permit*, place, authorise to be placed, or allow to remain, any object that is on, over or affecting *council land*, a *road* or a *Public Place*, including items which may:
(a) cause an obstruction to pedestrians or vehicles; or
(b) constitute a danger.

(2) An *owner* or *occupier* of any *land* must ensure that any gate, door or other means of access from that *land* does not open outwards onto *council land*, a *road* or a *Public Place*.

2.9 Bulk Waste and Shipping Containers

(1) A *person* must not, without a *permit*, place or cause to be placed a *bulk waste container* or shipping container on *council land*, a *road* or in a *Public Place*.

(2) Unless permitted under the Planning Scheme, a *person* must not, without a *permit* place a shipping container on *land* for a period longer than 28 days.

2.10 Graffiti

[New]

A *person* must not write, draw, tag, paint, scribble, scratch or spray any substance, including paint on a wall or other surface in a *Public Place*.

2.11 Advertising Signs

A *person* must not, without a *permit*, on or across *council land* or any *road*:

(a) write, deface, place or affix any letter, figure, device, poster, sign or advertisement on any building, fence or other property under the control of or vested in Council;

(b) erect or place an *advertising sign* or cause or authorise another *person* to do so; or

(c) erect or place any structure, banner or similar item.

2.12 Events

A *person* must not, without a *permit*, hold or participate in a street party, festival, market, event or procession on *council land*, a *road* or in a *Public Place*.

2.13 Roadside Trading

A *person* must not, without a *permit*, sell, promote or offer for sale, any goods or services from *council land* or a *road* from a vehicle parked on or beside that land or *road*, including the placement of tables, stalls or other similar structures, or authorise or allow another *person* to do so.

2.14 Busking and Street Performances

[Amended]

A *person*, with the objective of collecting money must not, without a *permit*, sing, spruik, perform, entertain or play any musical instrument, on *council land* or on a *road*.

2.15 Collections and Fundraising

A *person* must not, without a *permit*, solicit, collect or fundraise on *council land*.

2.16 Signs, Goods and Furniture

A *person* must not, without a *permit*, on *council land* or on a *road*, cause or allow another *person* to:

(a) display or permit to be displayed any goods or services for the purposes of advertising or promotion;

(b) place, erect, hang or affix or allow to be placed or affixed any *advertising sign* or other item, or

(c) affix, place, or allow to be placed any street furniture such as a seat, umbrella, table, chair, planter box, barrier or other item.

PART 3 – ENVIRONMENTAL AMENITY & SAFETY

This Part contains provisions which aim to protect the environmental amenity of *land* and the general amenity of the municipality.

3.1 Property Numbering

[Amended]

The *owner* or *occupier* of *land* to which a property number has been allocated by Council, must prominently display and maintain that number in such a manner, so that it is clearly readable and visible from the *road* that the *land* fronts.

3.2 Condition of Land

[Amended]

The *owner* or *occupier* of any *land* must not cause, or allow the *land* to be kept in a manner which, in the opinion of an *Authorised Officer*:

(a) is *unsightly*;
(b) is *dangerous* or likely to cause danger to life, health or property; or
(c) is detrimental to the general amenity of the area in which the *land* is located.

3.3 Condition of Buildings

[New]

(1) The *owner* of a building on *land* must not allow that building to be kept in manner which is, in the opinion of an *Authorised Officer*:

(a) *derelict*;
(b) in a state of disrepair;
(c) damaged or defaced;
(d) not secured to prevent unauthorised entry; or
(e) adversely affecting the amenity of the surrounding neighbourhood.

(2) The *owner* of *land* on which there is a vacant or *derelict* building/s must take all reasonable steps to secure the *land* from unauthorised access.

3.4 Prevention of Fire

[Amended]

An *owner* or *occupier* of *land* must not allow to exist on that *land* any material, including *vegetation*, which constitutes or is likely to constitute a fire hazard or a source of fuel for any fire.

3.5 Noxious Weeds

[New]

The *owner* or *occupier* of *land* must take all reasonable steps to prevent *noxious weeds* existing on that *land*.

3.6 Trees and Vegetation

[Amended]

The *owner* or *occupier* of *land* must not allow *vegetation* on that *land* to:

(a) overhang onto the footpath, *road* or *council land* at a height of not less than 3.0 metres from the surface of the adjacent road or *land*;
(b) obstruct or impair the vision or clear passage of a *vehicle* using the *road*;
(c) obstruct or interfere with the safe and accessible use of the footpath or *road* adjacent to or near the *land*;
(d) encroach upon any adjacent *road* or *council land*;
(e) cause damage to or interfere with any fixture or structure on *council land*; or
(f) cause damage to any drain vested in or under the control of Council.

3.7 Fires in the open air

(1) A *person* must not, without a *permit*, light or allow a fire to be lit or remain alight, on *land*:
(a) in the open air; or
(b) in an *incinerator*.

(2) Clause 3.7(1) does not apply to:
(a) a well-constructed and safe device constructed of fire-resistant materials for the purpose of outdoor heating;
(b) a *barbeque*, grill, pizza oven or similar type structure used for the purpose of cooking food; or
(c) a *person* authorised to engage in such an activity for or on behalf of a public authority.

(3) If an *Authorised Officer* is of the opinion that a *nuisance* has been caused by a fire lit in the open air, the *Authorised Officer* may direct the *owner* or *occupier* of the *land* on which the fire has been lit or the person in charge of the fire to extinguish the fire.

3.8 Vermin

An *owner* or *occupier* of *land* must not allow any *vermin* to exist on that *land*.

3.9 Keeping of Bees

[Amended]

The *owner* or *occupier* of any *land* where bees or beehives are kept must:

(a) keep those bees in accordance with the relevant Apiary Code of Practice; and
(b) ensure that the keeping of bees or beehives on that land does not cause a *nuisance*.

3.10 Storage of Vehicles

[Amended]

A *person* must not, without a *permit*, on *council land*, a *road* or in a *Public Place*:

(a) place or store or allow to be placed or stored a boat, caravan, trailer, or any other vehicle unable to move on its own accord, other than a *motor vehicle*, for longer than 48 hours; or
(b) store, leave or keep a registered vehicle for longer than 60 days.

3.11 Repairing Vehicles

A *person* must not dismantle, paint, carry out maintenance on or repair a vehicle on *council land*, a *road* or in a *Public Place*.

NOTE: *Clause 3.11 does not apply to repairs carried out following a mechanical breakdown.*

3.12 Vehicles in a Public Place

[Amended]

A *person* must not leave or allow to be left, a *vehicle* on *council land*, a *road* or in a *Public Place* that is:

a) unregistered;
b) immobile;
c) damaged;
d) dilapidated; or
e) causing a danger or an obstruction to other road users or pedestrians.

3.13 Vehicles and Machinery on Land

A *person* must not, without a *permit* use any *land*:

(a) for the storage of more than 2 unregistered *motor vehicle*s or machinery;
(b) for the dismantling or breaking up of *motor vehicle*s or machinery; or
(c) for the repair or servicing of any *motor vehicle* other than a *motor vehicle* registered at the address of that *land* which is primarily used for residential purposes.

NOTE: *Clause 3.13 does not apply if permitted under the Maroondah Planning Scheme*

3.14 Storage of Heavy Vehicles or Long Vehicles

[New]

A *person* must not, without a *permit*, store or keep a *heavy vehicle* or *long vehicle* on any *land*.

NOTE*: Clause 3.14 does not apply if permitted under the Planning Scheme.*

3.15 Alarms

[Amended]

An *owner* or *occupier* of *land* must not install, *permit* to be installed or cause to be retained on that *land* any alarm which emits a noise that is audible beyond the boundary of that *land*, unless:

(a) when activated the alarm is automatically rendered inaudible beyond the boundary within 10 minutes of it being activated; and
(b) the alarm cannot re-activate until the device has been re-set.

3.16 Camping on Land

[Amended]

An *owner* or *occupier* of *land* must not allow a *person* to camp on that *land* by occupying a caravan, *vehicle*, shed, tent or any other temporary, makeshift or like structure on the *land* in a manner that causes a *nuisance* or is detrimental to the general amenity of the area.

PART 4 - BUILDING SITE MANAGEMENT & ASSET PROTECTION

This Part aims to ensure the safety and amenity of the municipality by controlling activities associated with building work and to protect Council assets from damage during building works.

4.1 Asset Protection Permits

The *person in charge* of *building works* on *land*, must obtain an Asset Protection Permit at least 7 days prior to the *building works* commencing.

4.2 Containment of Building Sites

[New]

The *person in charge* of *building works* on *land*, must ensure that:

(a) the *building works* are contained entirely within the *building site*;

(b) the *building site* is provided with secure *site fencing*;

(c) gates or access points of the *site fencing* do not open outwards onto *council land*; and

(d) the *site fencing* is contained entirely within the *building site* and does not obstruct *council land*.

4.3 Building Site Safety and Amenity

[Amended]

The *person in charge* of *building works* on *land* must ensure, at all times:

(a) that the *building works* do not cause, or are likely to cause a danger or detriment to pedestrian or vehicular traffic safety;

(b) all building related material is kept within the *building site*;

(c) any sediment, mud, erosion, stormwater pollutants or other site run off is prevented from leaving the *building site*;

(d) mud, sediment, slurry or similar material is not deposited in or on any *road* or *Public Place*;

(e) dust or air pollutants from the *building site* is not detrimental to the amenity of the area;

(f) that the *building site* displays a clearly legible *site identification sign*;

(g) that there is on the *land* a toilet system installed and maintained to the satisfaction of an *Authorised Officer*; and

(h) that the *building works* do not cause detriment to any *council asset*, or the natural or built environment.

4.4 Building Site Access

The *person in charge* of *building works* must ensure that the point of entry to the *building site* is:

(a) only by way of a Council approved *vehicle crossing* whether permanent or temporary; and

(b) maintained to the satisfaction of an *Authorised Officer*.

4.5 Building Site Waste

[Amended]

The *person in charge* of *building works* on *land* must ensure that any building waste is:

(a) contained entirely within the *building site*;

(b) contained in a receptacle in which the waste cannot escape from~~;~~

(c) stored in a manner that does not cause detriment to the visual amenity of the area or a nuisance; or

(d) disposed of regularly, and, where that waste is in the form of stormwater, to a legal point of discharge.

4.6 Soil Stockpiles

The *person in charge* of *building works* on *land* must ensure that soil stripped from the *building site* is:

(a) stockpiled on the *building site* for re-use in a manner so as not to cause a *nuisance*; or

(b) is transported to a legal place of disposal.

4.7 Noise from Building Works

[Amended]

(1) The *person in charge* of *building works* on *land*, must not, without a *permit* cause or allow *building works* or other building related activities to be carried out on *land*:

(a) outside the hours of 7.00am and 6.00pm on weekdays;

(b) outside the hours of 9:00am and 3:00pm on Saturdays; and

(c) on any Sunday and any Public Holiday.

(2) Clause 4.7 (1) does not apply to *building works* which are inaudible and do not cause a *nuisance*.

4.8 Management of Easements

[New]

Where *land* is encumbered by a drainage easement, a *person* must not, without the prior written consent of Council:

(a) place any fill within an easement;

(b) excavate any soil or dirt from within the easement;

(c) excavate any soil or dirt from the *land* comprising the easement, in a manner which, in the opinion of an *Authorised Officer*, is likely to affect the flow of water over the easement or on or from *land* adjacent to the easement;

(d) cover any drainage inspection pit or pit lid in a manner which, in the opinion of an *Authorised Officer*, makes it impracticable to conveniently use or access the drainage inspection point or the pit lid for its intended purpose; or

(e) undertake *building works* on, over or within an easement, that in the opinion of an *Authorised Officer* may damage a Council drainage system, or limit Council's ability to access, maintain or renew a drainage system.

4.9 Direction to Cease Building Works

The *person in charge* of *building works* on *land* must cease *building works* immediately, when directed verbally or in writing to do so by an *Authorised Officer*.

4.10 Occupying Council Land or a Road for Building Works

[NEW]

A *person* must not, without a *permit*:

(a) occupy any part of a *road* or *council land* for *building works*; or

(b) alter the traffic flow or any parking provisions affecting *council land* or a *road*.

4.11 Vehicle Crossings

[Amended]

(1) A *person* must not, without a *permit*:

(a) install, construct, alter, or reconstruct a *vehicle crossing*, whether permanent or temporary; or

(b) allow any *vehicle* to enter or leave any *land* except by using the *vehicle crossing* servicing that *land*.

(2) Each point of vehicle access to *land* from a *road*, *road reserve* or *council land* must be approved by Council and properly constructed and maintained.

(3) An *Authorised Officer* may direct a person to:

(a) construct, repair or reconstruct a *vehicle crossing*, whether permanent or temporary; or

(b) reinstate any kerb, channel, footpath or other area.

4.12 Council Assets

A *person* must not, without a *permit*, destroy, damage, connect to, modify or interfere with any *council assets*.

4.13 Use of Drains and Legal Points of Discharge

(1) A *person* must not, without a *permit*:

(a) connect to;

(b) alter;

(c) interfere with;

(d) excavate;

(e) damage;

(f) destroy; or
(g) obstruct -
the function of any drain under the control of Council or any water course, ditch, creek, gutter, tunnel, bridge, levee, culvert or fence under Council management.

(2) The *owner* and *occupier* of *land* or any other *person* involved in the management of *land* must ensure that:
(a) each building and/or structure on the *land* is connected to a legal point of discharge nominated by Council through a properly constructed and maintained underground drainage system;
(b) the *land* is adequately drained to the satisfaction of an *Authorised Officer*; and
(c) all drainage servicing their *land* is maintained in sound working order and does not cause damage to any other property, including *council land*.

PART 5 - WASTE MANAGEMENT

This Part aims to manage waste collection to prevent impacts to amenity including the management of hard waste collection. [Amended]

5.1 Use of Council issued mobile garbage bin

A *person* supplied with a Council issued *mobile garbage bin*, must ensure that waste is deposited into that bin in accordance with *Council's Waste Services Guideline 2023* being a document incorporated by reference into this Local Law.

5.2 Privately arranged Waste Collection

The *owner* or *occupier* of *land* to which a privately arranged waste collection service occurs, must conduct and facilitate that collection in accordance with *Council's Waste Services Guideline 2023* being a document incorporated by reference into this Local Law.

5.3 Hard Waste

The *occupier* of *land* to which Council provides a hard waste collection must place the approved materials out for collection in accordance with *Council's Waste Services Guideline 2023* being a document incorporated by reference into this Local Law.

5.4 Interference with waste and mobile garbage bins

A *person* must not remove or interfere with any *mobile garbage bin*, refuse, recyclables or any other materials placed out for collection.

5.5 Use of Public Bins

A *person* must not use public bins to dispose of waste or recyclables generated from domestic, commercial or industrial premises.

PART 6 - ANIMALS

This Part contains provisions to manage domestic animals within the municipality and aims to ensure that animals kept on *land* do not cause a nuisance.

6.1 Animal Numbers

An *owner* or *occupier* of any *land* which is less than or equal to 5,000 square metres, must not, without a *permit*, keep or allow to be kept any more than the number for each animal set out in the following table:

Type of Animal	Number	Conditions
Dogs	2	An additional dog can be kept where according to Council records, the dog is 10 years old or more
Cats	2	An additional cat can be kept where according to Council records, the cat is 10 years old or more
Large Birds	0	
Domestic Birds	20	Birds must be kept in appropriate housing
Poultry	5	Does not include a rooster
Rooster	0	A rooster is not permitted
Pigeons	20	Pigeons must be kept in appropriate housing
Ferrets, Guinea Pigs, Rabbits or Rodents	5	
Horse or Donkeys	0	
Cattle, sheep, goats, alpacas or llamas	0	
Pigs	0	
Any other agricultural animal	0	

6.2 Keeping of Animals

The *owner* or *occupier* of *land* on which any animal is kept, must ensure that the animal housing or enclosure:

(a) is of adequate size to house the number or type of animals;
(b) is maintained in a clean and sanitary condition that does not cause a nuisance to any other *person*;
(c) provides adequate shelter for the number of and welfare needs of the animal;
(d) is maintained in good repair, and the surrounding area is well drained so as to not cause a nuisance;
(e) is located so as not to cause a nuisance;
(f) does not form part of the property boundary fence;

(g) is clear of materials which may harbour and/or attract *vermin*; and
(h) is adequately fenced to prevent the animal from escaping.

6.3 Collection and disposal of animal excrement

[Amended]

A *person* in charge of any animal in a *Public Place* must:

(a) carry a suitable litter device for the collection of excrement from that animal;
(b) immediately collect any excrement deposited by that animal; and
(c) dispose of the animal excrement in a proper and sanitary manner.

6.4 Control of dogs and cats

[New]

An owner or the *person* in apparent control of a dog or cat must not allow or *permit* that dog or cat to cause injury to a *person* or animal.

Note: *Dog attacks involving serious and non-serious injuries are dealt with under the Domestic Animals Act 1994.*

6.5 Animals at Large

[New]

The owner or person in charge of an animal must not allow that animal to wander from where it is usually kept.

Note: *This clause does not apply to dogs and cats that are dealt with under the Domestic Animals Act 1994.*

6.6 Animal Nuisance

An *owner* or *occupier* of *land* where an animal or bird is kept, must ensure that the animal or bird does not cause a nuisance.

6.7 Power to seize additional Animals

Where a Magistrate has found a *person* to be in breach of clause 6.1 and a *permit* for additional animals has not been granted, Council may enter the *land* on which the animals are being kept and seize and dispose of any such animals.

Note: *Disposal for the purposes of clause 6.7 includes sale, rehoming or destruction of the animal as determined by an Authorised Officer.*

PART 7 - LIQUOR AND SMOKE FREE AREAS

This Part aims to preserve public health and safety by regulating the consumption of alcohol and smoking in *Public Place*s.

7.1 Smoke Free Areas

(1) A *person* must not *smoke* in a *smoke free area* as shown in Part A of S*chedule* 2.

(2) Where an *Authorised Officer* believes on reasonable grounds that a *person* is contravening or has contravened clause 7(1) the *Authorised Officer* may direct the *person* to:
   (a) extinguish and dispose of the *tobacco product*; or
   (b) cease use of the *e-cigarette*.

(3) A *person* to whom a direction is given under clause 7(2) must comply with that direction.

(4) In addition to the *smoke free area*s, Council may, by following the guidelines listed in Part B of *Schedule* 2, prescribe any other area within the municipal district to be a *smoke free area*.

(5) Council may erect, or cause to be erected, appropriate signage indicating that an area is a *smoke free area*.

7.2 Consumption of Liquor in a Public Place

[Amended]

(1) A *person* must not, without a *permit*, on *council land* or in a *Public Place*:
   (a) consume any *liquor*; or
   (b) have in that *person*'s possession or control any *liquor* that is in an open container.

(2) An *Authorised Officer* may impound any open or unopened container of *liquor*.

NOTE: *Clause 7(1) does not apply to a person who consumes, possesses or has under their control, Liquor:*

a) on premises or at a location which is licensed under the Liquor Control Reform Act 1998; or
b) within a Council Reserve between the hours of 7.00 am and 10.00 pm, provided that its part of an organised activity with a Permit or as part of picnic with family/friends and no nuisance is being caused.

7.3 Behaviour at or near Licensed Premises

[Amended]

(1) A *person* must not, in the course of arriving at or departing from *Licensed Premises* or any carpark designated for the use of patrons of such *Licensed Premises*, cause a *nuisance* on *council land* or in a *Public Place*.

PART 8 - ADMINISTRATION

This Part contains general provisions regarding the issuing, suspension and revocation of permits issued under this Local Law, including Asset Protection Permits.

8.1 Applications

An application for a *permit* under this Local Law must be:

(a) in a form approved by Council; and
(b) accompanied by the fee set by Council.

8.2 Further requirements

Council may require a *permit* applicant to:

(a) supply more information; or
(b) give public notice of the application.

8.3 Decision on permit application

After considering all relevant documentation, Council may decide to:

(a) grant a *permit*;
(b) grant a *permit* subject to conditions, including the requirement to lodge a bond with Council;
(c) refuse to grant a *permit*; or
(d) exempt a *person* or class of *persons* from the requirement to obtain a *permit*.

8.4 Correction, suspension or cancellation of permits

(1) Council may correct a *permit* if the *permit* contains a clerical mistake, error or omission.

(2) Council may suspend or cancel a *permit* at any time:
   (a) if requested to do so by *permit* holder;
   (b) if it considers there has been;
      i) a material mis-statement or concealment of fact in relation to the application for the *permit*;
      ii) a material mistake in relation to the issue of the *permit*;
      iii) a material change in circumstances which has occurred since the granting of the *permit*; or
      iv) there has been a substantial failure to comply with the *permit* conditions or a *Notice to Comply*.

(3) Council must give written notice to a *permit* holder of any correction, cancellation suspension or amendment of a *permit*

(4) Before it cancels a *permit*, the Council must provide the *permit* holder with an opportunity to make a submission on the proposed cancellation.

(5) If the *permit* holder is not the *owner* of the *land*, and the *Authorised Officer* determined that the *owner*'s consent was required to be given for the application for the *permit*, the *owner* must be notified of any *Notice to Comply* subsequently issued by Council.

8.5 Fees and Charges

(1) Council may by resolution determine fees and charges for the purposes of this Local Law.

(2) Council may waive, reduce or defer payment of fees and charges in whole or in part, with or without conditions.

8.6 Bonds

(1) In deciding to grant a *permit*, Council may require the *permit* holder to lodge with Council a bond for such amount and in such a manner as Council determines.

(2) If Council is required to remedy a breach of any *permit* condition or repair any damage caused by any work carried out under a *permit*, it may for that purpose, use part or all of any bond associated with that *permit*.

(3) Where the bond or any part is used pursuant to clause 8(2), the *permit* holder, may be directed to replenish or increase the bond amount.

(4) On satisfactory completion of any works which required a bond. Council must release any applicable bond or remainder of the bond.

(5) Council may retain the bond amount and place it into Council's general revenue if the *permit* holder cannot be located or has not collected the bond payment within 12 months of notice being given.

PART 9 – ENFORCEMENT

9.1 Exercise of discretion

(1) In exercising any discretion contained in this Local Law, an *Authorised Officer* must have regard to:

(a) the objectives of this Local Law;

(b) any applicable Council Policy; and

(c) any other relevant matter, including extenuating circumstances which support a non-punitive response.

(2) For the purposes of clause 9(1), extenuating circumstances include *person*s who are vulnerable because they are:

(a) experiencing homelessness;

(b) socially, culturally or economically marginalised; or

(c) experiencing chronic physical or mental health issues.

9.2 Offences and Penalties

(1) A *person* who –

(a) contravenes or fails to comply with any provision of this Local Law or any document incorporated by reference;

(b) contravenes or fails to comply with any condition contained in a *permit* issued under this Local Law;

(c) knowingly supplies false or misleading information in support of an application for a *permit* issued under this Local Law;

(d) knowingly supplies false or misleading information to an *Authorised Officer*;

(e) fails to comply with a verbal or written direction issued by an *Authorised Officer*;

(f) fails to comply with a *Notice to Comply* issued by an *Authorised Officer*;

(g) fails to comply with a Notice of Impoundment served by *Authorised Officer*;

(h) fails to comply with a sign erected by Council; or

(i) makes or attempts to make any agreement with an *Authorised Officer* to induce that *Authorised Officer* to compromise their duty -

is guilty of an offence and is liable to a penalty not exceeding 20 *penalty units.*

(2) The *penalty units* indicated in this Local Law are maximum penalties which may apply if the offence is found proven by a Court.

(3) Following a finding of guilt or conviction for an offence against this Local Law in Court, a *person* is liable to a penalty of two penalty units for each day during which the contravention continues.

(4) If a *person*, after a finding of guilt or conviction by a Court, commits a subsequent offence against the same provision of the Local Law, that *person* is liable to a penalty not exceeding 20 *penalty units*.

9.3 Offences by Corporations

Where a corporation commits an offence under this Local law, any directors or officers of that corporation also commit an offence.

9.4 Operator Onus Offence

[New]

(1) The operator onus provisions under Part 6AA of the *Road Safety Act 1986* apply to any offence provision of this Local Law which involves the use of vehicles.

(2) If the operator of a vehicle that is used in the commission of an offence under this Local Law, cannot be found or it is impracticable to charge the operator with an offence, the registered owner of that vehicle, is guilty of that offence.

9.5 Power to issue a Direction

Where an *Authorised Officer* reasonably believes that a *person* has committed an offence against this Local Law, the officer may issue a verbal or written direction, requiring a *person* to stop offending and do anything necessary to rectify the offence.

9.6 Notice to Comply

(1) An *Authorised Officer* may serve a *Notice to Comply*, directing a *person* to take action to remedy any situation which may constitute a breach of this Local Law.

(2) A *Notice to Comply* must specify the time and date by which the *person* specified in the *Notice to Comply* must comply with the directions stipulated in the *Notice to Comply*.

(3) The period of time required to comply with a *Notice to Comply* must be reasonable in the circumstances having regard to:
(a) the amount of work required;
(b) the degree of difficulty;
(c) the availability of necessary materials or other items;
(d) climatic conditions;
(e) degree of potential risk; and
(f) any other relevant factors.

9.7 Infringement Notices

(1) Where an *Authorised Officer* reasonably believes that a *person* has committed an offence under this Local Law, the *Authorised Officer* may serve on that *person* an *infringement notice*.

(2) The penalties fixed for *infringement notice*s served under this Local Law are set out in *Schedule* 1, or if no amount is set out, 2 *penalty units* is applied.

9.8 Impounding items

(1) An *Authorised Officer* may immediately move or impound any object, thing or animal which the officer reasonably believes contravenes this Local Law.

(2) Following impoundment, an *Authorised Officer* must, if practicable, serve a Notice of Impoundment on the *person* whom the officer reasonably believes is the owner of the object, outlining the process for collection.

(3) An *Authorised Officer* may sell, dispose of or destroy an object that isn't collected in the manner specified in the Notice of Impoundment, with any proceeds from the sale being placed into Council's consolidated revenue.

(4) An *Authorised Officer* may sell, dispose of or destroy an object, where an owner cannot be established or has laid claim, following 28 days of impoundment, with any proceeds from the sale placed into Council's consolidated revenue.

(5) An *Authorised Officer* may direct any *person* responsible for causing or permitting an obstruction on *council land* to remove the obstruction.

(6) An *Authorised Officer* may return the object to its owner on payment of a fee set by Council.

9.9 Urgent Circumstances

In any urgent circumstance arising under this Local Law, an *Authorised Officer* may take any reasonable action to remedy the situation without first serving a *Notice to Comply*.

SCHEDULE 1 - INFRINGEMENT NOTICE PENALTIES

The *infringement notice* penalty for a company or incorporated body is identical to the penalty for a natural person unless indicated otherwise. Unless a sub-clause with a corresponding penalty unit has been referenced, the penalty unit specified relates to all sub-clauses within that clause.

Clause	Activity	Infringement Penalty for Natural person	Infringement Penalty for a Corporation
Part 2 - Use of Council Land and Roads			
2.1	Behaviour on Council Land and on Roads	2	
2.1 (e)	damage to a Council Asset	3	6
2.2	Use of Reserves	2	
2.3	Gateways to Reserves	2	
2.4	Filming	3	6
2.5	Camping on Council Land and in Public Places	1	
2.6	Donation Bins		
2.6 (1)	Donation bins on Council Land	5	10
2.6 (2)	Maintenance of donation bins in Public Places	3	6
2.7	Shopping Trolleys	2	4
2.7(3c)	collection of dumped trolleys	3	6
2.8	Items on Council Land and Roads	3	10
2.9(1)	Bulk Waste Containers	5	10
2.10	Graffiti	3	
2.11	Advertising Signs	1.5	4
2.12	Events	2	
2.13	Roadside trading	2	4
2.14	Busking and Street Performances	1	
2.15	Collections and Fundraising	1	
2.16	Signs, Goods and Furniture	1	
Part 3 - Environmental Amenity & Safety			
3.1	Property Numbering	1	
3.2	Condition of Land (a, b, c)	4	10
3.3	Condition of Buildings	10	20
3.3(2)	Securing of land	4	8
3.4	Prevention of Fire	5	10
3.5	Noxious Weeds	2	
3.6	Trees and Vegetation	2	
3.7	Fires in the open air	3	
3.8	Vermin	1.5	

Clause	Activity	Infringement Penalty for Natural person	Infringement Penalty for a Corporation
3.9	Keeping of Bees	1.5	
3.10	Storage of Vehicles	2	
3.11	Repairing Vehicles	2	
3.12	Vehicles in a Public Place	2	
3.13	Vehicles and Machinery on Land	3	
3.14	Storage of Heavy or Long Vehicles	3	6
3.15	Alarms	2	4
3.16	Camping on land	2	
Part 4 - Asset Protection & Building Sites			
4.1	Asset Protection Permits	5	10
4.2	Containment of Building Sites	3	6
4.3	Building Site Safety and Amenity		
4.3 (a)	pedestrian and vehicular traffic safety	5	10
4.3 (b)	building related material kept on building site	3	6
4.3 (c)	prevention of site run-off	3	6
4.3 (d)	mud deposits	5	10
4.3 (e)	prevention of dust and air pollutants	3	6
4.3 (f)	site identification	2	4
4.3 (g)	approved toilet system	2	4
4.4	Building Site Access	5	10
4.5	Building Site Waste	3	6
4.6	Soil Stockpiles	3	6
4.7	Noise from Building Works	5	10
4.8	Management of Easements	3	6
4.8 (a)	must not place any fill on an easement	3	
4.8 (b)	excavate any soil from easement	3	
4.8 (c)	excavate any soil from easement that can affect water flow	6	
4.8 (d)	cover any drainage inspection pit or pit lid	6	
4.8 (e)	undertake building works	10	
4.9	Direction to Cease Building Works	5	10
4.10	Occupying Road or Council Land for Building Works	10	20
4.11	Vehicle Crossings	5	10
4.12	Council Assets	3	6
4.13	Use of drains and legal points of discharge	10	16
Part 5 - Waste Management			
5.1	Use of Council issued mobile garbage bins	2	

Clause	Activity	Infringement Penalty for Natural person	Infringement Penalty for a Corporation
5.2	Privately arranged Waste Collection	5	10
5.3	Fail to comply with Council's Waste Collection Guidelines	3	6
5.4	Interference with waste and mobile garbage bins	2	4
5.5	Use of Public Bins	3	6
Part 6 - Animals			
6.1	Animal Numbers	1.5	
6.2	Keeping of Animals	2	
6.3	Collection and disposal of animal excrement	2	
6.4	Control of dogs and cats	3	
6.5	Animals at large	3	
6.6	Animal nuisance	2	
Part 7 - Alcohol and Smoke Free Areas			
7.1	Smoke Free Areas	2	
7.2	Consumption of liquor in a Public Place	2	
Part 9 - Enforcement			
9.2 (1)	Offences		
(a)	Fail to comply with an incorporated document	3	6
(b)	Fail to comply with a permit condition	2	4
(c)	Fail to comply with a condition of an Asset Protection Permit	5	10
(d)	Knowingly supplies false or misleading information in support of an application for a permit issued under this Local Law	3	6
(e)	Knowingly supplies false or misleading information to an Authorised Officer	3	
(f)	Fail to comply with a verbal or written direction issued by an Authorised Officer	3	
(g)	Fail to comply with a Notice to Comply issued by an Authorised Officer	3	6
(h)	Fail to comply with a Notice of Impoundment served by Authorised Officer	3	6
(i)	Fail to comply with a sign erected by Council	2	4
(j)	Makes or attempts to make any agreement with an Authorised Officer to induce that Authorised Officer to compromise their duty (NEW)	3	

SCHEDULE 2 - SMOKE FREE AREAS

PART A – SMOKE FREE AREAS

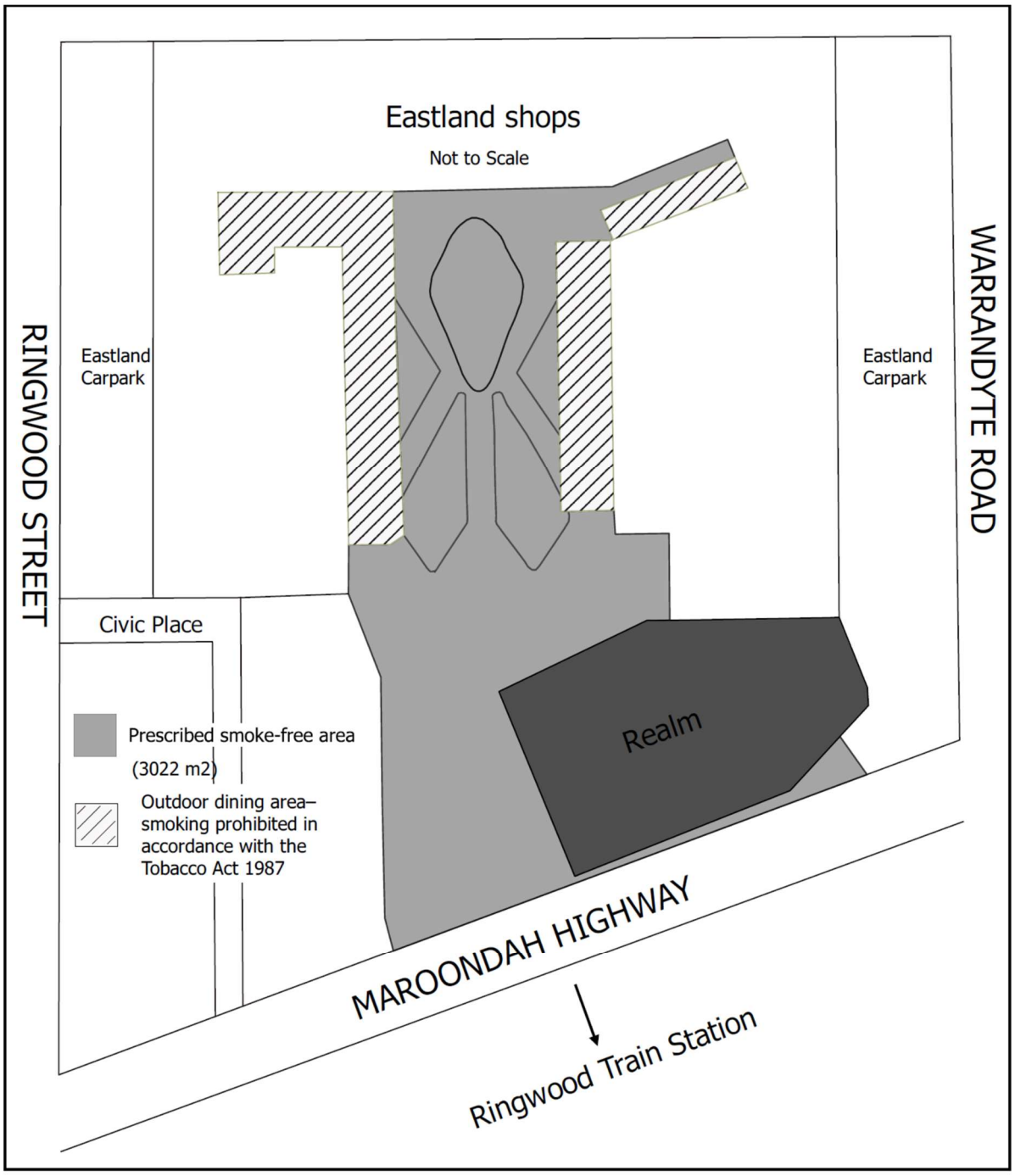
The following areas are *smoke free area*s for the purposes of clause 7 of this Local Law:

1. Ringwood Town Square – being the area more particularly described as such in the appended map.

2. Croydon Town Square – being the area more particularly described as such in the appended map.

Note: to any extent smoking is prohibited in the prescribed *smoke free area*s pursuant to the *Tobacco Act 1987*, the provision of the Local Law in respect to smoking are inoperative

1 - Ringwood Town Square



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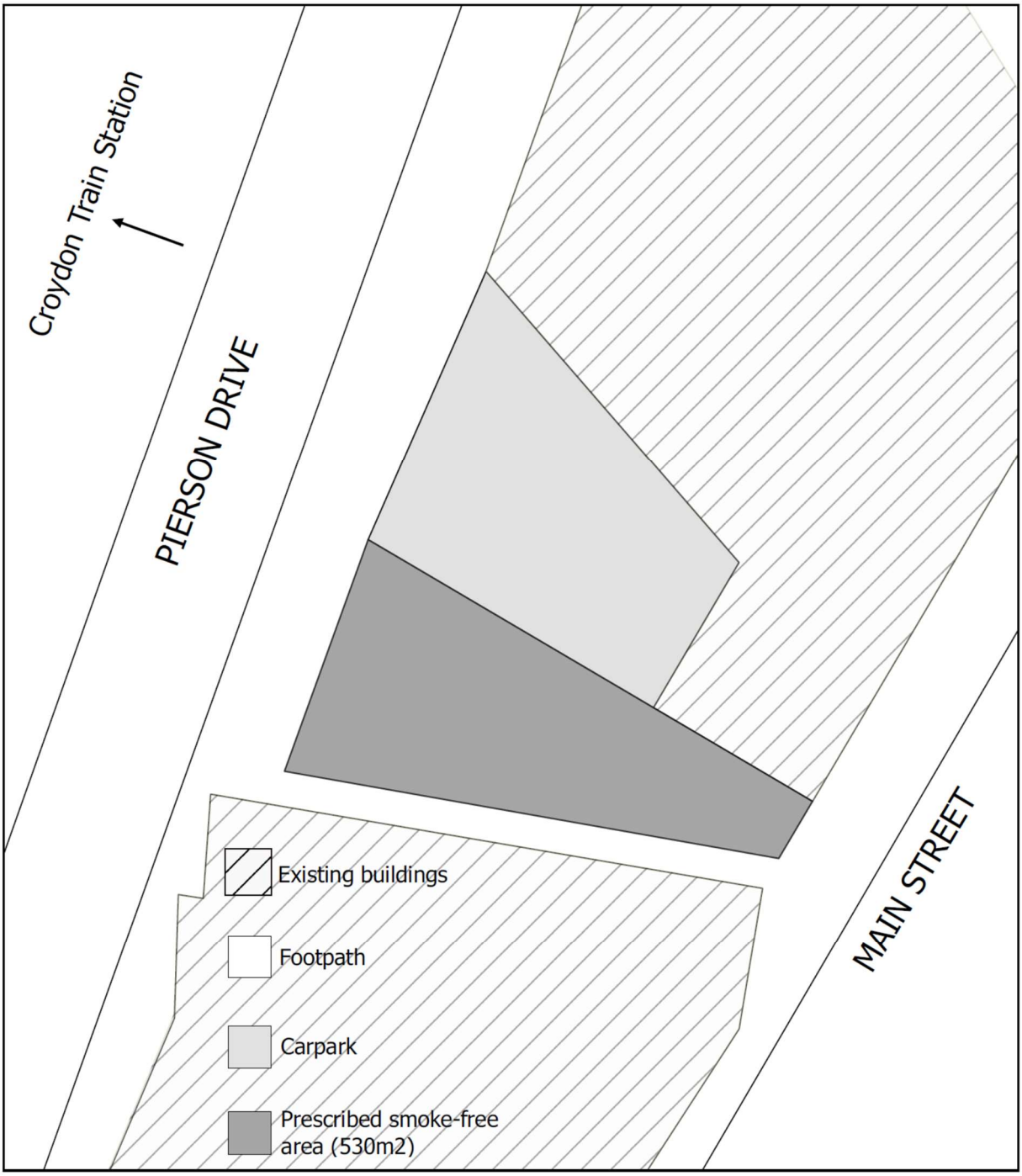
Maroondah City Council
Smoke Free Areas
Ringwood Town Square

Date 17-07-2018

10 0 10 20 30 40 m

2 - Croydon Town Square



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Maroondah City Council
Smoke Free Areas
Croydon Town Square

Date 17-07-2018

10 0 10 20 m

PART B - GUIDELINES FOR PRESCRIBING SMOKE FREE AREAS

When determining whether to Prescribe a *smoke free area* for the purposes of clause 7.1 of this Local Law, Council must have regard to the following factors:

a) the size of the proposed *smoke free area*;
b) the opinions of any *person* who is the *owner* or *occupier* of any part of the proposed *smoke free area*;
c) the proximity of the proposed *smoke free area* to a *Public Place*, part or all of which is not in a *smoke free area*;
d) the extent and outcome of any public consultation on the proposed *smoke free area*;
e) any benefits to the community which would be achieved by Council Prescribing the proposed *smoke free area*; and
f) any detriment to the community which would be caused by Council Prescribing the proposed *smoke free area*.