



Have  
your  
say

# Community Local Law 2016

Draft amendment for  
community review



Image: Yarragon Township



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Baw Baw Shire Council resolves:

## **PART 1 – PRELIMINARY**

### **1.1 Local Law**

This Community Local Law is a local law made under Part 5 of the *Local Government Act* Part 5 of the Local Government Act 1989.

### **1.2 Objectives**

The objectives of this local law are to provide for:

- (1) the peace, order and good government of the municipality;
- (2) a safe and healthy environment so that the community within the municipality can enjoy a quality of life that meets its expectations;
- (3) the safe and fair use and enjoyment of public places;
- (4) the protection and enhancement of the amenity and environment of the municipality;
- (5) a fair and reasonable use and enjoyment of private land;
- (6) a uniform and fair administration of this Local Law; and
- (7) regulating and managing activities of people within the municipality which may be dangerous, unsafe or detrimental to the quality of life of other people in, or the environment of, the municipal district.

### **1.3 Commencement and revocations**

This Local Law commences operation **date** (after publication in Government Gazette **date ? 2020** and ceases to operate on (insert date ?) unless revoked earlier.

### **1.4 Application of Local Law**

- (1) This Local Law applies throughout the municipality.
  - (2) This Local Law does not apply where any act or thing is authorised by any Act, Rule, Regulation or the *Baw Baw Planning Scheme*.
  - (3) The provisions of this Local Law do not apply to Council contractors, agents or employees to the extent that the proper discharge of their duties and obligations would otherwise constitute a breach of this Local Law.
- Definitions



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The following terms are, unless otherwise indicated in this Local Law, defined to mean;

Act	means the <i>Local Government Act 1989</i> .
advertising sign	means any placard, notice board, sign, structure, banner, "A" frame or similar device, whether portable or affixed to any structure, which is used for the purposes of soliciting sales or notifying persons of the presence of an adjacent property where goods or services can be obtained.
amenity	means a desirable or useful feature or facility of a building or place.
animal	means a dog, cat, poultry, domestic bird, pigeon, large bird, domestic mice, domestic rat, guinea pig, domestic rabbit, domestic fish, domestic turtle, tortoise, frog, horse, donkey, cattle, sheep, goat, alpaca, llama, camel, emu, pig and any other agricultural animal or domestic animal but excludes a person.
appointed agent	means a person authorised by the owner of a building or land to make an application, appeal, referral, representation or undertake works on their behalf.
asset protection permit	means a written permit issued by Council for the protection of public assets and infrastructure during building works.
authorised officer	means any person appointed by the Council to be an Authorised Officer under section 224 of the Act and includes members of Victoria Police who are appointed under that section.
barbecue	means any structure or device, erected or fixed outdoors, portable or mobile, powered by gas, electricity, liquid or solid fuel or any combination of them, and includes any structure or device used for spit roasting when used outdoors.
builder	means a person who: a) carries out building work, or b) manages or arranges the carrying out of building work, or c) intends to carry out, or to manage or arrange the carrying out of, building work.



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building	includes a part of a building and the whole or any part of a structure, temporary building or structure, fence, gate, wall, pavement, light, outbuilding, service installation, mast, pole and other appurtenance of a building.
building site	means any land on which building works are being, or are proposed to be, carried out.
building works	means any work for or in connection with: <ul style="list-style-type: none"><li>(a) the construction, demolition, renovation, alteration or removal of any building or structure or earthworks, such as excavation, digging or boring; or</li><li>(b) the delivery to or removal from a building site of goods or materials.</li></ul>
built up area	means an area in which there is urban development, street lighting, or the authorised traffic speed limit is 60km/h or less on a road.
bulk	means a number, volume, size or mass that is greater than for ordinary personal use.
bulk rubbish container	means a bin, container, skip, mobile storage unit or other structure designed or used for holding a substantial quantity of rubbish or storage and which is unlikely to be lifted without mechanical assistance but excludes a container used in connection with Council's kerbside waste collection service.
busk, busking	means to perform to the public, whether by acting, juggling, and singing, playing a musical instrument or otherwise entertaining passers-by, with or without collecting money.
bushfire prone area (BPA)	means areas that is subject to, or likely to be subject to bushfires/grass fires under the Building Regulations. BPA properties are identified on the State Government's VicPlan mapping tool <a href="https://mapshare.maps.vic.gov.au/vicplan/">https://mapshare.maps.vic.gov.au/vicplan/</a> by searching the property address, selecting the map tab and adjusting the Layer List.
camp / camping	means using a caravan, tent, swag, motor vehicle, shipping container, shed or like structure for residential accommodation (either temporary or permanent) by a person or persons, and 'camp' has a corresponding meaning.





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camper van	means a self-propelled vehicle that provides both transport and sleeping accommodation and is sometimes referred to as a camper, caravanette, or motor caravan.
caravan / mobile home	means any mobile home or similar vehicle which includes sleeping and/or living facilities, whether manufactured to luxury standard or privately converted from a standard vehicle, and includes a caravan, camper trailer and other similar towed living/sleeping trailer facility.
central business district (CBD)	means the main business and commercial area of a town or city.
chief executive officer	means the person appointed by Council to be its Chief Executive Officer or any person acting in the position.
Clause	means a clause of this Local Law and sub-clause has a corresponding meaning.
Council	means Baw Baw Shire Council.
council land	means any land either vested in or under the control or management of Council, including a reserve, watercourse and reservation.
clothing bin	means any receptacle designed for the collection of donated clothing or goods for recycling.
declared noxious weed	has the meaning ascribed to it in the <i>Catchment and Land Protection Act 1994</i> .
dwelling	means any building or portion of a building which is used, intended, adapted or designed for use for living.
droving	means the movement of livestock along a road or through a public area.
emergency services	means a) Victoria Police, b) the Metropolitan Fire Brigade, c) the Country Fire Authority, d) Ambulance Victoria, e) the State Emergency Service, f) any organization whose primary function is the provision of first aid response, and g) any successor to any named organisation above, and includes all members of the above organisations when engaged in bona fide operational activities.





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farm zone	has the meaning ascribed to it in the Baw Baw Shire Planning Scheme.
fire	means heat, smoke, combustion, burning, smouldering or causing smoke, whether or not there is a flame.
fire break	<p>means for land of less than 20,000 square metres, a minimum strip of land, 10 metres wide around the entire external perimeter of the property or for land of 20,000 square meters or more, a minimum strip of land, 20 meters wide, around the entire external perimeter of the property.</p> <p>A fire break can be maintained on that land by:</p> <ul style="list-style-type: none"><li>(a) cutting all grass or weeds inside the fire break, or;</li><li>(b) keep grazing animals or livestock inside the fire break to strip graze (the animals eat the grass, weeds or undergrowth and keep the grass, weeds or undergrowth below the required height).</li></ul>
fodder	means grass grown for the production of food for grazing animals or livestock either by grazing animals directly on the land, or for the production of hay.
footpath	means an area, usually parallel to a carriageway that is open to the public and designated for, or has one of its main uses, use by pedestrians.
goods	except in so far as the context otherwise requires, includes money and every other description of property except land.
grazing	means allowing livestock to enter and remain on a road for the purpose of grazing.
heavy vehicles	means any vehicle over 4.5 tonnes gross vehicle mass.
in the open air	has the meaning ascribed to it as in the <i>Country Fire Authority Act 1958</i> .



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land	means any land whether publicly or privately owned and includes buildings and other structures temporarily or permanently fixed to the land.
liquor	means a beverage intended for human consumption with an alcoholic content greater than 0.5 per cent by volume at a temperature of 20 Celsius.
livestock	has the same meaning ascribed to it as in the <i>Impounding of Livestock Act 1994</i> .
noxious weed	has the meaning ascribed to it as in the <i>Catchment and Land Protection Act 1994</i> .
nuisance	has the meaning ascribed to it as in the <i>Public Health and Wellbeing Act 2008</i> . Nuisances may arise from or be caused by: <ul style="list-style-type: none"><li>(a) any premises</li><li>(b) any land, water or land covered by water</li><li>(c) any animal, bird or pest animal within the meaning of the Act</li><li>(d) any refuse</li><li>(e) any noise or emission</li><li>(f) any state, condition or activity or other matter or thing</li></ul>
offensive:	has the meaning ascribed to it as in the <i>Public Health and Wellbeing Act 2008</i> .
person	means an individual, a corporation, an associated corporation under the <i>Associations Incorporation Act 1981</i> , a partnership and an unincorporated association.
premises	means the whole or part of any land, a lot on a plan of subdivision and a <i>building</i> or <i>building</i> under construction.
prescribe	means determine and publish on Council's website.
private land	means land that is not Council Land, a road or a public place.
public land, public place	has the meaning ascribed to it in the <i>Summary Offences Act 1966</i> , namely:



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

recreational vehicle means any vehicle (whether registered or not), including a motor vehicle, motorcycle, recreational motorcycle or other motorised vehicle that does not comply with the standards for registration, except a vehicle being used for legitimate farming purposes, but does not include a caravan, mobile home or camper van.

residential area/zone means any area zoned as being, or reserved, for residential purposes under the Baw Baw Planning Scheme.



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- road has the meaning ascribed to it in the Act, namely:
- (a) a street; and
  - (b) a right of way; and
  - (c) any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1978* or the *Land Act 1958*; and a public road under the *Road Management Act 2004*; and
  - (d) a passage; and
  - (e) a cul de sac; and
  - (f) a by-pass; and
  - (g) a bridge or ford; and
  - (h) a footpath, bicycle path or nature strip; and
  - (i) any culvert or kerbing or other land or works forming part of the road.
- significant tree means any tree or vegetation identified on or listed in the Significant Tree Register (available on Council's website)
- store means to accumulate, leave standing or put away for future use.
- unsightly means land which contains one or more of the following, but is not limited to:
- a) unconstrained rubbish;
  - b) excessive dead, diseased or dying vegetation; and/or excessively long grass and/or weeds;
  - c) a disused excavation;
  - d) waste material;
  - e) a building which is incomplete and not currently being constructed;
  - f) a building or other structure or thing which is detrimental to the amenity of the area;
  - g) graffiti on any building, structure or boundary fence;



- h) any other thing or combination of things that in the opinion of an Authorised Officer is detrimental to the amenity of the area;
- i) graffiti on exterior walls or fences;
- j) unregistered vehicles and/or disassembled or incomplete vehicles, excessive machinery, machinery parts or similar.

vehicle means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes bicycle or other pedal-powered, tram-car and air-cushion vehicle but does not include railway locomotive or railway rolling stock.

urban growth zone (UGZ) means land that has been identified for future urban development. This zone may also be applied to land adjacent to regional cities and towns where a strategy has been prepared that clearly identifies that the land is suitable for future urban development.

zone means a zone, as particularised, under the Planning Scheme.



## PART 2 – ANIMALS

### 2.1 Permitted Quantity of Animals

- (1) The limitations and restrictions in this Part do not prohibit the keeping of any animals or birds regulated by the Baw Baw Planning Scheme.
- (2) An owner or occupier of any land in a Residential Area or Urban Growth Zone must not, without a permit, keep or allow to be kept on that land any more than four different species of animals stated in the following table.
- (3) An owner or occupier of any land in a Residential Area or Urban Growth Zone must not, without a permit, keep or allow to be kept on that land in excess of the number of animals stated in the following table:

Animal Type	Land up to 999 square metres	Land which is 1,000 to 3,999 square metres	Land which is 4,000 square metres and greater
Dogs	2	3	4
Cats	2	2	2
Horses, Ponies	0	0	2
Sheep, Goats, Alpacas or similar	0	2	4
Pig	0	0	0
Rooster	0	0	0
Poultry	6	6	No limit
Cattle	0	0	1

### 2.2 Animal Excrement

- (1) A person in charge of an animal must not allow any part of the animal's excrement to remain on any road or public land and must immediately collect and properly dispose of the excrement upon it being deposited there.
- (2) A person in charge of an animal on any road or public land must carry sufficient litter devices to collect and properly dispose of excrement from that animal and must produce them on the request of an Authorised Officer.



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### 2.3 Droving and grazing of Livestock

- (1) A person who owns or is in charge of livestock must not cause or allow the droving or grazing of the livestock on any road without a permit.
- (2) Clause 2.3(1) does not apply when the person complies wholly with the "Manual for Traffic Control at Stock Crossings" (Vicroads, June 2015) including obtaining all necessary permissions from the relevant road authority.
- (3) A person must not, without a permit, install a stock crossing or related sign or other infrastructure on any road.

### 2.4 Horses on Reservations

- (1) A person must not, without a permit, ride or lead a horse or cause or authorise another person to ride or lead a horse upon a reserve, reservation, footpath or nature strip within township boundaries other than an area which is signposted as available for such activities.
- (2) Council may grant a permit for a horse to be ridden or led upon a reserve or reservation within township boundaries where it is necessary and there is no reasonable and safe alternative.

### 2.5 Keeping of Animals

- (1) An owner or occupier of land must ensure that any part of the land used for keeping an animal is:
  - (a) maintained in a clean, inoffensive and sanitary condition and does not cause a nuisance to any other person;
  - (b) kept to the satisfaction of Council or an Authorised Officer; and
  - (c) adequately fenced and keep the fence maintained in a satisfactory condition, so that any animal or bird kept on the land cannot escape from the land.
- (2) An owner or occupier of any land on which an animal is kept must ensure that:
  - (a) any structure on the land which houses an animal is sited so as not to cause a nuisance to any person;
  - (b) the part of the land surrounding the place where the animal is kept is free from rubbish or vegetation that could attract or harbour rats or vermin;
  - (c) all animal food for consumption kept or stored on the land is kept or stored in a vermin and fly proof receptacle; and
  - (d) all animal waste is removed from the land so as not to be offensive or a nuisance to any other person.





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## 2.6 Animal Noise

- (1) An owner or occupier of any land must take all reasonable steps:
  - (a) to prevent any animal making unreasonable noise on the land; or
  - (b) to prevent any noise caused by an animal being emitted from the land which in the opinion of an Authorised Officer is:
    - (i) unreasonable or objectionable to a person on other land or premises; or
    - (ii) adversely affects the amenity of any person on other land or premises.
- (2) For the purposes of sub-clause (1), in determining whether noise is unreasonable, objectionable or adversely affecting the amenity, regard must be had to:
  - (a) its volume, intensity and duration; and
  - (b) the time, place and other circumstances in which it is emitted.

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## PART 3 - LAND USE AND AMENITY

### 3.1 Domestic Waste

This clause applies to the occupier or owner of any dwelling or other property where the Council provides a garbage service.

- (1) All domestic waste, green waste and recyclables must be placed in the garbage and recycling bins provided by Council for collection, in accordance with any standards, policies or guidelines of Council applicable to garbage, recycling or green waste services.
- (2) All residential developments within Council's declared garbage areas must be serviced by Council's garbage service provider.
- (3) Bins must be placed on the nature strip or footpath adjacent to the roadside, or in any other manner directed by Council or an Authorised Officer.
- (4) Empty bins must be returned to the owner or occupiers' property as soon as practicable, and no later than **48 hours** after collection.
- (5) Any waste which has inadvertently spilled onto the road, nature-strip or surrounding area during collection must be removed by the occupier responsible for the bin.
- (6) A person must not deposit in any bin provided by Council:
  - (a) hazardous waste or chemicals;
  - (b) liquid waste of any kind;
  - (c) grossly offensive material, including but not limited to animal carcasses;
  - (d) dirt, dust, or other matter from any vacuum cleaner, ashes, hair or other similar matter, unless it has been securely wrapped in paper or some other impermeable cover or container to prevent its escape;
  - (e) hot ashes;
  - (f) glass or other sharp objects unless they are properly contained or wrapped in such a way as to render them harmless and inoffensive;
  - (g) oil, paint, solvents or similar substance or any other substance which may damage the bin or reduce its strength or effectiveness;
  - (h) disposable nappies unless they have been securely wrapped in impervious material prior to being placed in the bin;
  - (i) vehicle or engine parts including tyres;
  - (j) medical waste, syringes or veterinary waste;
  - (k) construction or demolition waste, and trade wastes of any kind.



- (7) Bins must be maintained in a sound, clean and odour-free condition.
- (8) Any individual bin must not exceed the maximum weight of 75-80 kgs.
- (9) A person must place their hard waste out for collection in accordance with any standards, policies or guidelines of Council or as directed by an Authorised Officer.
- (10) A person must not place hard waste in any public place more than seven days prior to the booked collection date or advertised commencement of a hard waste collection for the public place where the hard waste is placed.
- (11) A person must not place any hard waste, green organics or recycling items onto another person's booked hard waste, green organics or recycling collection items.
- (12) A person must not, without the consent of Council or an Authorised Officer, remove or interfere with anything left out for collection.

### **3.2 Central Business District waste**

- (1) Bins from commercial properties in Central Business District (CBD) areas must only be placed out for collection from 4.00pm the day prior to collection and then removed from the kerb by 10.00am on the day of collection.
- (2) Street litter bins must not be used by commercial proprietors or residents to dispose of their commercial or household waste.

### **3.3 Condition of Land**

- (1) An owner or occupier of land must ensure that the land, in the opinion of an Authorised Officer, does not constitute and is not likely to constitute a danger to health or property.

### **3.4 Unsightly and dangerous land**

- (1) An owner or Occupier of land or premises must not cause, allow or suffer the land or premises to be unsightly and detrimental to the amenity of the neighbourhood in which the land or premises are located.
- (2) An owner or occupier of land must not allow any grass or weeds on that land, except that which is grown for fodder, to exceed 300 millimetres in height.
- (3) Further to sub-clause (2), an owner or occupier of land must not allow grass or weeds that are to be used for fodder to exceed 100 millimetres in height within a fire break.

### **3.5 Restrictions on Burning in the Open Air – Declared Fire Danger Period**

- (1) Nothing in the following clauses permits a person to light a fire during a declared Fire Danger Period (including a day of Total Fire Ban) without a permit issued by the Country Fire Authority under the *Country Fire Authority Act 1958*.



### **3.6 Restrictions on Burning in the Open Air – Land not in the designated Bushfire Prone Area (BPA)**

- (1) A person, owner or occupier of land must not, without a permit, light or allow to be lit, a fire in the open air, where the land is not within the designated Bushfire Prone Area.
- (2) The restriction in sub-clause (1) does not apply to a:
  - (a) barbecue, pizza oven or other properly constructed appliance while it is being used for cooking food; or
  - (b) a fire in a chimenea, fire pit or other similar and properly constructed appliance while being used for heating; or
  - (c) a fire lit during the course of duty by a member of a fire and emergency services agency.

### **3.7 Restrictions on Burning in the Open Air – Land in the Bushfire Prone Area (BPA)**

- (1) A person, owner or occupier of land may light a fire in the open air on land, where the land is within the designated Bushfire Prone Area if:
  - (a) no more than 2 cubic metres of vegetation is burnt at any one time on land size less than 4000 square metres; or
  - (b) no more than 5 cubic metres of vegetation is burnt at any one time on land size greater than 4000 square metres; and
  - (c) the fire is not within 20 metres of any neighbouring dwelling and 10 metres of any other structure, and;
  - (d) the fire is lit or allowed to remain alight in accordance with Clause 3.10(1).
- (2) Where a person wants to burn in the open air under this provision and the requirements in sub-clause (1) cannot be complied with, a person must not, without a permit, light or allow to be lit, a fire in the open air within the Bushfire Prone Area.

### **3.8 Restrictions on Burning in the Open Air – Public Land**

- (1) A person must not, without a permit or the relevant land managers consent, light or allow to be lit, a fire in the open air on;
  - (a) a road (including a road reserve, footpath or nature strip); or
  - (b) Council land or reserve; or
  - (c) Crown land; or
  - (d) any public place.



### 3.9 Nuisance Burning and Incinerators

- (1) A person, owner or occupier of land must not light or allow to be lit, a fire in an incinerator.
- (2) A person, owner or occupier of land must not light or allow to be lit, a fire in the open air that in the opinion of an Authorised Officer:
  - (a) is a nuisance or may cause a hazard to a person's health; or
  - (b) has an adverse impact on visibility beyond the property boundary, including reducing the visibility of motorists and other users of a road.
- (3) A person, owner or occupier of land must not light or allow to be lit, a fire in the open air to burn or allow to be burnt any:
  - (a) green or wet material;
  - (b) non timber based materials;
  - (c) rubber or plastic, including plastic mulch, plant pots, silage wrap and packaging materials;
  - (d) furnishings and carpet;
  - (e) manufactured chemicals;
  - (f) petroleum or oil products;
  - (g) paint, including any container in which paint is kept;
  - (h) food waste;
  - (i) manure and straw;
  - (j) other offensive, noxious or toxic matter; or
  - (k) anything else determined by an Authorised Officer.

### 3.10 General Provisions

- (1) A person, owner or occupier of land who has lit or allowed a fire to remain alight must do so in accordance with the following requirements:
  - (a) a notification of the burn must be registered with the Emergency Services Telecommunications Authority (ESTA) - 1800 668 511;
  - (b) must be actively supervised at all times by a person over the age of 18 years old, who has the means and capability to extinguish the fire;
  - (c) sufficient fire protection equipment (including an adequate water supply) must be available to extinguish the fire if required;
  - (d) the vegetation to be burnt must be dead and dry prior to lighting;



- (e) at the site of the fire, the wind speed must not exceed 15 kilometres per hour; and
  - (f) the temperature must be not more than 30 degrees celsius.
- (2) A person must, when directed to do so by a member of an emergency service agency or an Authorised Officer, extinguish a fire in the open air.

### 3.11 Recreational Vehicles

- (1) A person must not, without a permit, use a recreational vehicle on any Council Land or reserve, unless the Council Land or reserve has been prescribed for that purpose.
- (2) A person must not use a recreational vehicle on private land within a Residential Zone.
- (3) A person must not use a recreational vehicle on private land within a Low Density Residential Zone where that land is 5 acres or less in size.
- (4) A person must not, without a permit, use a recreational vehicle on private land within a Low Density Residential Zone where that land is greater than 5 acres in size.
- (5) A person must not, without a permit, use a recreational vehicle on private land within a Commercial or Industrial Zone for non-commercial purposes.

### 3.12 Shipping Containers and relocatable buildings

- (1) A person must not, without a permit, store, keep or place a shipping container or relocatable building on any Council land.
- (2) An owner or occupier of land must not cause or allow a shipping container or relocatable building to be placed on the land without:
  - a a permit issued by Council in accordance with this Local Law, or
  - b a permit issued by Council in accordance with the *Planning and Environment Act 1987*.

### 3.13 Overhanging Branches

- (1) An owner or occupier of land must not allow any tree, part of a tree, plant or other vegetation to grow on that land so as to interfere with or obstruct the passage of traffic by:
  - (a) overhanging onto or over any Road abutting that land at a height of less than 3 metres from the level of the adjacent footpath or nature strip;
  - (b) obstructing or impairing the vision of the driver of a vehicle travelling along a Road adjacent to or near the land or approaching the intersection adjacent to or near the land; or



- (c) otherwise impacting on the safe and convenient use of any Road adjacent to or near the land.
- (2) An owner or occupier of land must not allow any tree, part of a tree, plant or other vegetation to grow on that land so as to cause damage to or interference with any:
  - (a) fixture or other structure in a road, or on Council Land; or
  - (b) drain vested in or under the control of Council;
  - (c) or so as to obscure a traffic control item, street sign or street furniture.

### 3.14 **Vegetation**

- (1) A person, owner, occupier of land or appointed agent must not, without a permit, in or on any road, Council Land or public place, destroy, damage, remove, lop or otherwise interfere with any vegetation or allow any person to destroy, damage, remove, lop or otherwise interfere with vegetation.
- (2) A person, owner, occupier of land or appointed agent must not, without a permit, destroy, damage, remove, lop or otherwise interfere with any vegetation identified on or listed in the Significant Tree Register, or engage or allow any other person to undertake any of these actions
- (3) Sub-clause (1) does not apply to a person authorised by Council to undertake any such works or an employee of such person in the course of his or her employment, or an Authorised Officer in the course of his or her employment

### 3.15 **Declared Noxious Weeds**

- (1) An owner, occupier of land or appointed agent must not in a residential, commercial or industrial area allow any noxious weed to be present on that land.

### 3.16 **European Wasps**

- (1) An owner or occupier of land must, within 7 days of becoming aware of the existence of a European wasp nest or nests on the land, take steps to cause that nest or those nests to be removed.

### 3.17 **Bees**

- (1) An owner or occupier of land who keeps or allows bees to be kept on that land must do so in accordance with the Victorian Apiary Code of Practice.
- (2) An owner or occupier of land must, within 7 days of becoming aware of the existence of an unmanaged honeybee hive or hives on the land, take steps to cause that hive or those hives to be removed.





### 3.18 Vehicles on Private Property

- (1) A person who owns or occupies private property in a residential area must not, without a permit, park, keep, store, repair, or allow to remain on any residential premises a vehicle which is greater than 7.5 metres in length or has a Gross Vehicle Mass of 4.5 tonnes or greater, except a registered vehicle under the *Road Safety Act 1986* that is a motor home, caravan or boat trailer.
- (2) Subclause (1) does not apply in relation to a heavy vehicle, which is parked, kept, stored or repaired for less than one hour, or when the driver is picking up or setting down goods.
- (3) A person who owns or occupies private property must not, except with a permit, keep on that private property more than one vehicle which is not currently registered or has a permit from VicRoads if the property is 1,000 square metres or less in size.
- (4) A person who owns or occupies private property must not, except with a permit, keep on that private property more than two vehicles which are not currently registered or have a permit from VicRoads if the property is over 1,000 square meters but less than 4,000 square metres in size.

### 3.19 Property Numbers

- (1) Council or an Authorised Officer may from time to time allot an address number to each property and may from time to time allot a different number to the property or otherwise change the numbering.
- (2) A person, owner or occupier of the property to which an address number has been allotted must mark the property with a number so as to be clearly visible, legible and kept in such state of repair as to be clearly visible and legible from the road on which the property has its frontage.

### 3.20 Fireworks

- (1) A person, occupier or appointed agent, must not, without a permit issued under this Local Law, discharge any fireworks on or from any Council land.
- (2) An owner or occupier of land must not allow their land to be used for the conduct of a fireworks display unless the display is undertaken in accordance with the requirements of the *Dangerous Goods (Explosives) Regulations 2011*.



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## **PART 4– BEHAVIOUR AND ACTIVITIES ON ROADS AND IN PUBLIC PLACES**

### **4.1 Shopping Trolleys**

- (1) The owner of a shopping trolley must ensure that his, her or its name and contact number are clearly marked on the shopping trolley.
- (2) A person must not be in possession or control of a shopping trolley outside of a 200 metre radius from the retailer which provided or made available the shopping trolley.
- (3) A person must not leave a shopping trolley on a road, in a public place or on vacant land except in an area prescribed for that purpose, or cause or authorise another person to do so.
- (4) If a shopping trolley has been left in a public place (other than in an area prescribed for that purpose), an Authorised Officer may direct the owner of the shopping trolley, or the person in charge of the retail premises from which it has apparently been transported, to remove the shopping trolley.
- (5) Any shopping trolley abandoned on a road, in a public place or on vacant land may be removed by an Authorised Officer and impounded.

### **4.2 Restrictions Relating to Smoking in the Municipality**

- (1) Council may designate any area or areas within which a person must not smoke and the times and dates during which a person must not smoke.
- (2) Any designation of areas, times and dates under sub-clause (1) must be published by Council by giving public notice at least 14 days before the restrictions are to be introduced by:
  - (a) giving notice in a newspaper generally circulating throughout Victoria and on Council's website;
  - (b) posting notices on a publicly accessible notice board at the principal office of Council; and
  - (c) retaining a copy of the public notice in the register of determinations to be kept with this Local Law from the date of the notice until the restrictions have ceased to operate.
- (3) Council must cause any area designated under sub-clause (1) to be signposted with sufficient signs to reasonably notify a person entering the area designated under sub-clause (1) or (2) of the nature of any such restrictions.
- (4) A person must not smoke in any area designated under sub-clause (1) at a time or a date designated under that sub-clause.

### **4.3 Driving or parking on Council Land**

- (1) A person must not, without a permit, drive or park a vehicle on a public place or reserve (other than any public highway or road) unless the land or reserve has been designated by Council for that purpose.



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- (2) A person must not, without a permit, allow any vehicle which is currently registered or which has a permit from the Roads Corporation or any other relevant authority, to be left standing continuously in any public place for a period in excess of seven consecutive days.

#### **4.4 Repair of Vehicles**

- (1) A person must not repair, paint, maintain or service a vehicle on any road or Council Land except where it is necessary to undertake minor repairs to get the vehicle underway or moving.

#### **4.5 Sale of Vehicles**

- (1) A person must not park or leave standing a vehicle or cause a vehicle to be parked or left standing, on any road or Council Land or in any public place for the purpose of exposing or displaying that vehicle for sale.

#### **4.6 Abandoned and Unregistered Vehicles**

- (1) A person must not leave an unregistered vehicle or abandon any vehicle on any road or on any Council Land.

#### **4.7 Camping and Caravans**

- (1) A person must not, without a permit, camp on Council Land, a public place or on any road in a tent, caravan, camper van, motor vehicle or other temporary or makeshift structure unless he or she is within a caravan park licensed under the *Residential Tenancies Act 1997*.
- (2) Notwithstanding sub-clause (1), Council may prescribe an area or location as an area where a caravan or camper van can park overnight for a maximum period of 72 hours.
- (3) An owner or occupier of any land must not allow camping or a caravan to be occupied on that land in excess of 28 days within a 12 month period unless a permit has been obtained or camping is permitted under the Planning Scheme.
- (4) A person must not, without a permit, keep or store more than one caravan on any land in a Residential Area unless permitted to do so under the Planning Scheme.

#### **4.8 Bulk Rubbish Container / Clothing Bin Placed in a Public Place**

- (1) A person must not, without a permit, place a bulk rubbish container or clothing bin in or on any Council Land, public place or road.

#### **4.9 Signage**

- (1) A person must not, without a permit, display or allow to be displayed a sign on any road.



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- (2) A person must not, without a permit, do anything contrary to any sign erected by or on behalf of Council in or on any public place, reserve or road which prohibits such a thing.

#### 4.10 Trading Activities

- (1) A person must not, without a permit, on a road, or on Council Land:
- (a) place any advertising sign;
  - (b) display any goods;
  - (c) place any outdoor dining furniture or associated facilities;
  - (d) place any structure for the purpose of selling or offering to sell any goods or services;
  - (e) sell or offer for sale any goods or services carried about or placed on the person or any other movable thing;
  - (f) hold a promotion, or cause or authorise another person to do so.
- (2) A person must not, without a permit, sell goods or solicit or try to attract trade or business on vacant land or land which he or she does not ordinarily occupy.

#### 4.11 Use of Public Places

- (1) A person must not, without a permit or approval, use Council owned or managed land or facilities for the purposes of commercial gain or community events.
- (2) A person must not, without a permit, busk, fundraise or conduct a community awareness activity on any road or Council Land.

#### 4.12 Behaviour

- (1) A person must not on any road or Council Land or in a public place:
- (a) use indecent, insulting, threatening, offensive or abusive language;
  - (b) behave in an indecent, offensive, insulting or riotous manner;
  - (c) unreasonably interfere with the use or enjoyment of the road, Council Land or public place by another person.
  - (d) act in a way which could endanger any person;
  - (e) defecate or urinate except in a toilet or urinal (as the case may be);
  - (f) damage, destroy, deface, remove or interfere with anything in or on any building, improvement or other structure of any kind;
  - (g) act contrary to any conditions or signs that contain conditions that apply to the use of the road, Council Land or public place;



- (h) occupy or cause or allow another person to occupy all or part of a public place that causes it to be inaccessible to other people without a permit issued by Council; or
- (i) act contrary to any reasonable and lawful direction of any Authorised Officer or a person in charge of a facility on Council Land.

#### **4.13 Consumption and possession of Liquor is prohibited in certain circumstances**

- (1) A person must not, in or on a Road, Council Land or Public Place, or within a Motor Vehicle which is in or on a Public Place:
  - (a) consume any liquor; or
  - (b) have in his or her possession or control, any liquor other than liquor in a sealed container.
- (2) Clause 4.13(a) does not apply to a Person:
  - (a) taking part in a festival or event in respect of which the Council has granted a permit for persons to consume liquor or to have in their possession or control any liquor other than liquor in a sealed container;
  - (b) within authorised premises or licensed premises under the Liquor Control Reform Act 1998 or any subsequent legislation relating to the serving and consumption of liquor; or
  - (c) who has been granted a permit to take liquor into an area prescribed by Council.
- (3) Where an Authorised Officer believes on reasonable grounds that a Person is contravening or has contravened clause 4.13(a), the Authorised Officer may direct the Person to seal any container or dispose of the contents of any unsealed container.
- (4) A Person who fails to obey a direction of an Authorised Officer under clause 4.13(3) is guilty of an offence.
- (5) Council may prescribe certain parts of the Municipal District where the consumption of liquor or the possession of liquor is prohibited.
- (6) No prescription under this clause 4.13(5) will have any force or effect unless signs advising of the prohibitions are erected in the relevant area of the Municipal District.
- (7) Despite sub-clause (1), Council may grant a permit for the consumption of any liquor or for the possession of liquor in unsealed containers in or on any road or public place at any time.



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## **PART 5 – CONSTRUCTION AND PROTECTION OF COUNCIL ASSETS**

### **5.1 Asset Protection**

- (1) An owner, occupier, builder or appointed agent responsible for undertaking building works must not, without an Asset Protection Permit, cause or allow:
  - (a) entry to the building site with a motor vehicle having a gross weight exceeding two tonnes;
  - (b) a road to be occupied for the carrying out of any works in association with the building works or building site;
  - (c) the connection of land to a stormwater drain vested in Council's control;
  - (d) the opening, alteration or repair of a drain vested in Council's control in association with the building works or building site;
  - (e) vehicular access to the building site from a point other than a vehicle crossing;
  - (f) the use of any land adjoining or within proximity of the building site for the purpose of storing materials or equipment associated with the building works or building site;
  - (g) the carrying out of building works for which a building permit is required pursuant to the provisions of the Building Act 1993 where the estimated cost of works as shown on the building permit exceeds \$12,000.
- (2) An application for an Asset Protection Permit must:
  - (a) be accompanied by such fee as is fixed by Council;
  - (b) include a statement from the person in charge of the building works about the location and the extent of any pre-existing damage to public infrastructure assets adjacent to the building site; and
  - (c) be lodged with Council prior to commencement of the activity for which the Asset Protection Permit is necessary.
- (3) A person to whom an Asset Protection Permit has been issued must comply with any conditions contained in that Asset Protection Permit.
- (4) Council may exempt any owner, builder or appointed agent from one or more of the obligations imposed by this Clause 5.1 subject to such conditions it considers appropriate.

### **5.2 Protection of Council Assets**

- (1) A person must not occupy, obstruct or make unsafe or cause to be made unsafe a footpath, nature strip or road.



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- (2) A person must not, without a permit, undertake any activity which may damage, interfere with or destroy any asset vested in or under the control of Council.

### 5.3 Public Protection

- (1) A person must not, without a permit, on a road or in a public place -
  - (a) occupy or fence off any area; or
  - (b) erect a hoarding, gantry, scaffolding or site shed; or
  - (c) use a crane, hoist, lift, travel tower or similar machinery or devices for any work; or
  - (d) make a hole or excavation; or
  - (e) fill a hole or excavation; or
  - (f) remove, damage or interfere with a temporary traffic signal, sign, barrier or other structure erected to protect pedestrians or regulate traffic.
- (2) Sub-clauses 1(d) and 1(e) also apply to land abutting a road or public place.

### 5.4 Vehicle Crossings

- (1) A person, owner, occupier or appointed agent of any land must ensure that;
  - (a) each point of vehicular access from a road to the land has an appropriately constructed vehicle crossing approved by Council.
  - (b) not allow any vehicle or recreational vehicle to enter or leave any land except by a Council approved vehicle crossing.
  - (c) must not, without a permit, construct, install, alter, remove or allow to be constructed, installed, altered or removed a vehicle crossing, whether such vehicle crossing be permanent or temporary.
- (2) An Authorised Officer may serve a Notice to Comply on the owner or occupier of land requiring:
  - (a) the construction of a vehicle crossing if the land does not have a satisfactory vehicle crossing.
  - (b) the repair of any vehicle crossing if, in the opinion of the Authorised Officer, the existing vehicle crossing is in such a state of disrepair that it constitutes a danger; or
  - (c) the removal of any vehicle crossing and the reinstatement of the pavement, kerb, channel, drain, culvert, and nature strip if, in the opinion of the Authorised Officer, the vehicle crossing is no longer required.





- (3) If a Notice to Comply has been issued, the owner or occupier of the land fails to comply with such notice within 30 days of issue, Council or an Authorised Officer may install, repair or remove the vehicle crossing, or cause the vehicle crossing to be installed, repaired or removed and recover the costs of doing so from that person.
- (4) Any costs recoverable under sub-clause (3) will be a debt due and payable to Council.

### **5.5 Load Limits on Roads and Bridges**

- (1) A person must not, without a permit, drive a vehicle on a road or bridge when the vehicle exceeds the weight indicated on a sign authorised by Council or VicRoads pertaining to that road and located at the entrance to such road or bridge.

### **5.6 Drainage of Properties**

- (1) An owner or occupier of land must ensure that:
  - (a) the land is adequately drained to the satisfaction of an Authorised Officer;
  - (b) the land does not discharge water that is a nuisance to an occupier of adjoining land; and
  - (c) water does not discharge from an air conditioner or other equipment on that land onto a footpath.
- (2) An owner or occupier of land must not:
  - (a) without a permit, alter the course of an overland flow of water, whether or not there is an easement over the flow path;
  - (b) fail to maintain a private stormwater drainage system or on-site stormwater detention system serving a residential, commercial or other property where failure to do so causes a nuisance on other land;
  - (c) fail to carry out rectification or maintenance works when directed to do so by an Authorised Officer if that the Authorised Officer provided a timeframe within which works had to be completed; or
  - (d) carry out works within or fill in drains located in any easement on the land, whether they are in favour of Council or otherwise.

### **5.7 Requirement for Bond**

- (1) If, in the opinion of Council or an Authorised Officer, it is likely that any Council asset may be damaged in the course of any building work on land for which a building permit has been issued, the owner or occupier of the land may be required to pay a bond to Council.



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- (2) The amount of any bond under sub-clause (1) must be determined by Council or the Authorised Officer having regard to the probable cost of repairing any damage that is likely to be caused.
  - (3) An owner or occupier of land must repair any damage to Council assets that occurs as a result of or arising out of the building works on the land for which a permit has been granted.
  - (4) Any bond or part of a bond paid to Council under sub-clause (1) may be retained by Council to meet the cost of repairing any damage which an owner or occupier has failed to repair in accordance with his or her obligations under sub-clause (3).
  - (5) For the purpose of sub-clause (3), Council or an Authorised Officer may determine the cost of repairs to Council assets.
  - (6) Council must refund any bond, or part of a bond, paid to it under sub-clause (1) if Council is satisfied that:
    - (a) there has been no damage to Council assets because of the building works.

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## PART 6 – BUILDING & CONSTRUCTION SITES

### 6.1 Building Works

- (1) The owner, builder or appointed agent carrying out any works on land, must comply and ensure compliance with Council's Building and Works Code of Practice.

### 6.2 Site Identification

- (1) The owner, builder or appointed agent, prior to the commencement of any works, must erect and maintain site identification in a conspicuous position accessible to the public, close to the main entrance to the building site which:
  - (a) is at least 600 millimetres in height and 400 millimetres in width;
  - (b) is clearly visible and legible from the road; and
  - (c) contains the lot number, as described on the Certificate of Title relevant to the land; and
  - (d) identifies the name, registration number, telephone contact number and postal address of the builder; and
  - (e) identifies the name, registration number and contact details of the relevant building surveyor; and
  - (f) identifies the building permit number and the date of issue of the permit; and
  - (g) the site identification must continue to be displayed and remains visible and legible for the duration of the building work.

### 6.3 Stormwater Protection

- (1) 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 waste or gross pollutants or other associated builder's refuse in accordance with currently accepted best practice. This includes adoption of measures including (but not limited to):
  - (a) Minimise the amount of mud, dirt, sand, soil or stones deposited on the road abutting roads, adjoining land or washed into stormwater system; and
  - (b) Prevent building cleanup, wash down or other wastes and builder's refuse being discharged offsite or allowed to enter the stormwater system; and



- (c) Ensure all vehicles delivering materials to the site are prevented from depositing mud, sand, soil, or stones onto Council's road network; and
- (d) Ensure that any waste which has spilled onto the road, nature strip or surrounding area is removed as soon as practicable so that any residues are prevented from entering the stormwater system; and
- (e) Ensure that any footpath adjacent to the building site or likely to be affected by the building work is kept clear of mud, dirt, stones and all loose debris at all times; and
- (f) Ensure that the building site is managed and controlled in accordance with the principles of relevant best practice guidelines as issued from time to time by the Environmental Protection Authority, Melbourne Water, Gippsland Water or any other relevant organisation that may come into operation.

#### **6.4 Dust**

- (1) The owner, builder or appointed agent, who is carrying out work on the land, must ensure that the site is managed to minimise the risk of detrimental effects to the health and amenity of nearby residents through reduced visibility, reduced air quality and the effects of deposition of dust generated from the building site.

#### **6.5 Sanitary Facilities**

- (1) The owner, builder or appointed agent must ensure that, prior to the commencement of any building work and for the duration of the building work, a sewerated toilet or a chemical portable toilet (closed) system is provided and serviced as required, and is available for the use of the persons on that site to the satisfaction of an Authorised Officer;
  - (a) Notwithstanding the Clause above, where adjacent building sites are under the control of the same owner, builder or appointed agent, one sewerated toilet or a chemical portable toilet may be provided for use by multiple building sites, provided that no more than 3 adjacent building sites rely on that toilet.
  - (b) The owner, builder or appointed agent must advise Council within 7 days of the installation of a sewerated toilet.

#### **6.6 Site Fencing**

- (1) The owner, builder or appointed agent must ensure that:
  - (a) All building work is contained entirely within the building site, and
  - (b) Materials are not deposited, stored or stockpiled on any part of the road without the approval of Council.



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- (c) Clause 6.6(3) only applies to building work on land that is:
  - (d) In a Residential Zone or Urban Growth Zone (within the meaning of the Baw Baw Planning Scheme), and;
  - (e) Is less than 4000m<sup>2</sup> in size.
- (3) The owner, builder or appointed agent must ensure that, prior to the commencement of any building works and for the duration of the building works, the site is provided with adequate site fencing that complies with the clause above. Adequate site fencing means fences or gates of a temporary or permanent nature, that:
- (a) are not less than 1.5 meters in height; and
  - (b) are capable of preventing litter from being transported from the building site by wind; and
  - (c) have not more than one access opening to the building site which is located to correspond with the location of the vehicle crossing for the building site, and is kept closed at all times when building work is not in progress; and
  - (d) when erected on the boundary of the building site's property line, it does not protrude into or onto any land other than the building site; and
  - (e) may enclose more than one building site where the owner, builder or appointed agent is responsible for adjoining building sites.
  - (f) The requirement to provided site fencing under this clause may be waived or varied at Council's discretion.

#### **6.7 Containment and Removal of Refuse**

- (1) The owner, builder or appointed agent, prior to the commencement of any building work, and for the duration of the building work must:
  - (a) Provide a closed refuse facility suitable for the disposal of builder's refuse which may become wind-blown;
  - (b) Place the refuse facility on the land and keep it in place (except for such periods as are necessary to empty the facility) for the duration of the building work;
  - (c) Not place a refuse facility on any Council land, road or street without a permit;
  - (d) Ensure that all builder's refuse which requires containment is placed in the refuse facility;
  - (e) Keep the refuse facility closed to prevent wind-blown litter escaping from the refuse facility;



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- (f) Empty the refuse facility whenever full and, if necessary, provide a replacement facility during the emptying process. The requirement to provide a refuse facility may be waived at Council's discretion.
  - (2) The owner, builder or appointed agent upon completion of any building work, must remove and lawfully dispose of all builders' refuse within fourteen days of completion of the building work or issuing of an occupancy permit, whichever occurs last.

#### **6.8 Site Access and Hours of Operation**

- (1) An owner, occupier, builder or appointed agent of any land, or person responsible for the building works, must not cause or allow any works to be carried out on land unless the works are carried out between the hours:
  - (a) 7.00am and 8.00pm Monday to Friday; or
  - (b) 9.00am and 8.00pm on any Saturday, Sunday or Public Holiday; and
  - (c) Any movement of vehicles or site preparation works are prohibited before 7am weekdays and 9am on weekends; and
  - (d) Any unloading of equipment or deliveries to the site or idling of vehicles is prohibited before 7am on weekdays and 9am on weekends; and
  - (e) Loud talking or use of radios on site is prohibited before 7am on weekdays and 9am on weekends.

#### **6.9 Building Works creating a nuisance**

- (1) An owner, occupier, builder or appointed agent of land, must not carry out any building works or cause or allow to be carried out any building works as to create a nuisance to another person.

#### **6.10 Direction to cease Building Works**

- (1) An Authorised Officer may inspect a Building Site at any reasonable time and may direct any person found carrying out building works in contravention of the Local Law or a permit issued under this Local Law, to cease carrying out those building works immediately or within any period the Authorised Officer deems as being reasonable.



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## PART 7 - ADMINISTRATION

### 7.1 Permits

- (1) An application for a permit under this Local Law must be in a form approved by Council or issued by a delegate or Authorised Officer and accompanied by any appropriate fee prescribed by Council.
- (2) Council may require an applicant to supply additional information or to give public notice of the application.

### 7.2 Applying for a permit

- (1) A person who wishes to apply for a permit may do so by:
  - (a) lodging with the Council an application, in a form approved by the Council; and
  - (b) paying to the Council the appropriate application fee.
- (2) The Council may require an applicant to provide additional information before dealing with an application for a permit or for an exemption.
- (3) The Council may require a person making an application for a permit to give public notice, which will entitle any person to make a submission and to be heard in accordance with section 223 of the Local Government Act 1989.

### 7.3 Considering Applications for Permits

- (1) In considering an application for a permit an Authorised Officer may consider:
  - (a) Any policy or guideline adopted by the Council relating to the subject matter of the application for the permit;
  - (b) Any submission that may be received in respect of the application;
  - (c) Any comments that may be made in respect of the application by any public authority, Government department, community organisation or any other body or person;
  - (d) The risk posed to public safety, property or Council assets by the proposed activity;
  - (e) Any anticipated impact or amenity issues of the proposed activity;
  - (f) Whether the concerns or issues raised regarding the proposed activities can be adequately controlled by permit conditions;
  - (g) The objectives of this Local Law; and
  - (h) Any other relevant matter.





#### **7.4 Issue of permits**

- (1) The Council may:
  - (a) issue a permit, with or without conditions; or
  - (b) refuse to issue a permit.

#### **7.5 Permit conditions**

- (1) The conditions of a permit must be set out in the permit.
- (2) The Council may, during the currency of a permit, alter the conditions of a permit if it considers it to be appropriate to do so, after providing the permit holder with an opportunity to make comment on the proposed alteration.

#### **7.6 Direction of an Authorised Officer**

- (1) An Authorised Officer may, by written notice, give any reasonable direction to a person in respect of:
  - (a) any matter under this Local Law; or
  - (b) a person's use of a public place; or
  - (c) a permit issued under this Local Law.
- (2) A person to whom a direction is given under sub-clause (1) must comply with that direction.

#### **7.7 Power of Authorised Officers – Urgent Circumstances**

- (1) A person must comply with any reasonable direction, instruction or signal of an Authorised Officer, member of Victoria Police, member or officer of an authorised litter authority, or member or officer of an emergency services agency lawfully given in connection with this Local Law.
- (2) An Authorised Officer may act to remedy any circumstances which threatens a person's life, health or property, or an animal, or to remedy any unabated nuisance, without serving a notice under Clause 7.6, provided that:
  - (a) the circumstances arises out of a failure to comply with a provision of this Local Law;
  - (b) the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstances; and
  - (c) the person to whom a notice under Clause 7.6 would have otherwise been served is, as soon as possible, notified of the urgent circumstances and the action taken to remedy it.



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## 7.8 Impounding

- (1) An Authorised Officer may:
  - (a) impound any item or goods that encroaches or obstructs the free use of Council Land, a public place or a road, or any item or goods which contravenes or is being used in contravention of this Local Law;
  - (b) release the item or goods to its owner on payment of a fee determined by Council, which is not to exceed an amount that reasonably represents the cost to Council of impounding, keeping and releasing the item or goods; and
  - (c) sell, destroy, dispose of or give away the impounded item or goods if the owner of the item has not paid the fee within the prescribed time as listed on the notice under Clause 7.8(2) or after taking the steps required under sub-clause (3).
- (2) If an Authorised Officer impounds an item or goods under this Local Law, he or she must serve on the owner a notice as soon as possible after the impoundment.
- (3) If the identity or whereabouts of the owner of an item or goods impounded under this Local Law are unknown, Council must take reasonable steps to ascertain the owner's identity or whereabouts prior to exercising its powers under sub-clause (1).
- (4) Council is entitled to retain out of the proceeds of sale of any impounded item its reasonable costs incurred in impounding, keeping and selling the item or goods.



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## PART 8 – ENFORCEMENT

### 8.1 Offences

- (1) A person commits an offence against this Local Law if the person:
  - (a) does something which a provision of this Local Law prohibits to be done;
  - (b) fails to do something which a provision of this Local Law requires to be done;
  - (c) engages in activity without a current permit where a provision of this Local Law requires that person to obtain a permit before engaging in that activity;
  - (d) breaches or fails to comply with a condition of a permit issued under this Local Law; or
  - (e) fails to comply with a direction of an Authorised Officer under Clause 7.6.

### 8.2 Penalties

- (1) A person guilty of an offence under this Local Law is subject to the maximum penalty shown under the relevant provision. If proceedings are brought before a court, the court may impose the maximum penalty of 20 penalty units.
- (2) If no maximum penalty is specified under the relevant provision in the Local Law, the court before which proceedings are brought may impose a penalty not exceeding 10 penalty units.

### 8.3 Infringement Notice

- (1) As an alternative to prosecution an Authorised Officer may serve an infringement notice on a person who has committed an offence against this Local Law.
- (2) The fixed penalty for the infringement notice purposes is the amount set out in Schedule 1.
- (3) Payments for infringement notices are to be paid to Council in the manner set out in the infringement notice.
- (4) Should an infringement notice not be paid within 42 days of the notice being issued, the notice may be withdrawn and the matter prosecuted in Court.

### 8.4 Review of Decisions

- (1) A person may apply in writing to Council for an internal review of a written notice or Notice to Comply issued to that person under this Local Law within 14 days of the relevant notice or Notice to Comply being issued.



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- (2) A person may, in accordance with the *Infringements Act 2006*, apply for an internal review of a decision to serve an infringement notice on them.
  - (3) Where an internal review is applied for in respect of a written notice or Notice to Comply, the person requesting the review must do all that is necessary to cooperate in the prompt and speedy conduct of the review.
  - (4) Until the person is advised in writing of Council's decision following an internal review, the person is not required to comply with the relevant notice or Notice to Comply.

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## PART 9 – CERTIFICATION

This Local Law was made by resolution of Baw Baw Shire Council on 22 June 2016.  
Date of public notice of the making of this Local Law in Warragul and Drouin Gazette:  
28 June 2016  
Date of public notice of the making of this Local Law in Latrobe Valley Express:  
27 June 2016  
Date of notice on the making of this Local Law in the Victorian Government Gazette:  
30 June 2016

The COMMON SEAL of                    )  
BAW BAW SHIRE COUNCIL                )  
Was affixed on                            )

.....  
Councillor

.....  
Chief Executive Officer/Authorised Officer

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## SCHEDULE 1 - Penalties Fixed for Infringement Notices

### ANIMALS

Provision	Offence	Penalty Units
2.1(2)	Keeping animals in excess of permitted number of species on residential land.	3
2.1(3)	Keeping animals in excess of permitted numbers on residential land.	3
2.2(1)	Failure to remove animal excrement from a road or public land.	2
2.2(2)	Failure to carry a sufficient litter device to collect and dispose of animal excrement.	2
2.3(1)	Failure to obtain a permit to drove livestock on a road.	3
2.3(3)	Failure to obtain a permit to install a stock crossing, sign or infrastructure on a road.	3
2.4(1)	Failure to obtain a permit to ride or lead a horse upon a reserve, reservation, footpath or nature strip unless signposted as available for such activities.	2
2.5(1)(a)	Failure to comply with any of the animal keeping provisions contained in clause 2.5(1).	3
2.5(2)(a)	Failure to comply with any of the animal keeping provisions contained in clause 2.5(2).	3
2.6(1)(a)	Failure to prevent any animal making unreasonable noise.	3
2.6(2)(b)(i)	Failure to prevent any noise caused by an animal being emitted from the land which is unreasonable or objectionable to a person on other land or premises.	3
2.6(2)(b)(ii)	Failure to prevent any noise caused by an animal which adversely affects the amenity of any person on other land or premises.	3

### LAND USE AND AMENITY

Provision	Offence	Penalty Units
3.1 (1)	Failure to comply with a determination of Council for the use of an approved garbage bin.	2
3.1(2)	Failure to be serviced by Council's garbage service provider in a residential development.	2
3.1(3)	Failure to position approved garbage bin/s, green waste bin/s or recyclable goods bin/s on the nature strip or footpath adjacent to the roadside, or as directed by an Authorised Officer.	2
3.1(4)	Failure to return empty bin to the owner or occupiers' property as soon as practicable, and within 48 hours after collection.	2
3.1(5)	Failure to remove waste which has inadvertently spilled onto the road, nature-strip or surrounding area.	2
3.1(6)	Failure to comply with any of the waste disposal provisions contained in clause 3.1(6).	2
3.1(7)	Failure to maintain a bin in a sound, clean and odour-free condition.	2



Provision	Offence	Penalty Units
3.1(8)	Failure to ensure that approved bins do not exceed the maximum gross weight prescribed by Council or an Authorised Officer.	2
3.1(9)	Failure to leave any recyclable goods, green waste or hard waste out for collection in accordance with a direction of Council or an Authorised Officer.	2
3.1(10)	Placing hard waste in a public place more than seven days prior to the booked collection date or advertised commencement of a hard waste collection.	2
3.1(11)	Placing any hard waste, green organics or recycling items onto another person's booked hard waste, green organics or recycling collection items.	2
3.1(12)	Removal of any item left out for collection for recycling, green waste or hard waste without the consent of Council or an Authorised Officer.	2
3.2(1)	Failure to place bins out or remove bins in the time frames specified for commercial properties in Central Business District (CBD) areas.	2
3.2(2)	Use of a street litter bin by a commercial proprietor or a resident to dispose of their commercial or household waste.	3
3.3(1)	Allowing land to constitute or be likely to constitute a danger to health or property.	3
3.4(1)	Failure to ensure that land or premises are not unsightly and / or detrimental to the amenity of the neighbourhood in which the land or premises are located.	3
3.4(2)	Allowing grass or weeds present on the land, except that which is grown for fodder, to exceed 300 millimetres in height.	3
3.4(3)	Allowing grass or weeds to exceed 100 millimetres in height within a fire break.	3
3.6(1)	Failure to obtain a permit to light or allow to be lit, a fire in the open air, where the land is not within the designated Bushfire Prone Area.	5
3.7(2)	Failure to obtain a permit to burn in the open air in a designated Bushfire Prone Area, where the conditions as prescribed in 3.7(1)(a),(b),(c) and (d) cannot be met.	5
3.8(1)	Failure to comply with any of the open air burning provisions on public land contained in clause 3.8(1).	5
3.9(1)	Lighting or allowing to be lit, a fire in an incinerator.	5
3.9(2)	Failure to comply with any of the open air burning provisions contained in clause 3.9(2).	5
3.9(3)	Failure to comply with any of the open air burning provisions contained in clause 3.9(3).	5
3.10(1)	Failure to comply with the general provisions for open air burning.	5
3.10(2)	Failure to extinguish a fire in the open air when directed to do so by a member of an emergency service agency or an Authorised Officer.	5
3.11(1)	Failure to obtain a permit to use a recreational vehicle on any Council land or reserve unless the land has been prescribed for that purpose.	3
3.11(2)	Use of a recreational vehicle on private land in a Residential Zone.	3





Provision	Offence	Penalty Units
3.11(3)	Use of a recreational vehicle on private land in a Low Density Residential Zone where that land is 5 acres or less in size.	3
3.11(4)	Failure to obtain a permit to use a recreational vehicle on private land in a Low Density Residential Zone where that land is greater than 5 acres in size.	3
3.11(5)	Failure to obtain a permit to use a recreational vehicle on private land in a Commercial or Industrial Zone for non-commercial purposes	3
3.12(1)	Failure to obtain a permit to store, keep or place a shipping container or relocatable building on any Council.	3
3.12(2)	Failure to obtain a permit to cause or allow a shipping container or relocatable building to be placed on the land.	3
3.13(1)(a)	Allowing a tree, part of a tree, plant or other vegetation to interfere with or obstruct the passage of traffic by overhanging onto or over any Road abutting that land at a height of less than 3 metres from the level of the adjacent footpath or nature strip	3
3.13(1)(b)	Allowing a tree, part of a tree, plant or other vegetation to interfere with or obstruct the passage of traffic by obstructing or impairing the vision of the driver of a vehicle travelling along a Road adjacent to or near the land or approaching the intersection adjacent to or near the land.	3
3.13(1)(c)	Allowing a tree, part of a tree, plant or other vegetation to interfere with or obstruct the passage of traffic by otherwise impacting on the safe and convenient use of any Road adjacent to or near the land.	3
3.13(2)(a)	Allowing a tree, part of a tree, plant or other vegetation to cause damage to or interference with any fixture or other structure in a road, or on Council Land.	3
3.13(2)(b)	Allowing a tree, part of a tree, plant or other vegetation to cause damage to or interference with any drain vested in or under the control of Council.	3
3.13(2)(c)	Allowing a tree, part of a tree, plant or other vegetation to cause damage to or interference with, or so as to obscure a traffic control item, street sign or street furniture.	3
3.14(1)	Failure to obtain a permit to destroy, damage, remove, lop or interfere with any vegetation on Council land or in a public place.	7
3.14(3)	Failure to obtain a permit to destroy, damage, remove, lop or interfere with any vegetation on or listed in the Significant Tree Register.	10
3.15	Allowing any declared noxious weed to be present on land that is in a residential, commercial or industrial area.	3
3.16	Failure to take steps to cause a European Wasp nest to be removed within seven days of becoming aware of the nest.	2
3.17(1)	Failure to keep bees in accordance with the requirements of the Victorian Apiary Code of Practice.	2
3.17(2)	Failure to take steps to cause an unmanaged honeybee hive to be removed within seven days of becoming aware of the hive.	2



Provision	Offence	Penalty Units
3.18(1)	Failure to obtain a permit to park, keep, store, repair or allow to remain on residential premises a vehicle which is greater than 7.5 metres in length or a Gross Vehicle Mass of 4.5 tonnes or greater.	3
3.18(3)	Failure to obtain a permit to keep more than one vehicle which is not currently registered or have a permit from VicRoads on private land if the land is 1,000 square metres or less in size.	3
3.18(4)	Failure to obtain a permit to keep more than two vehicles which are not currently registered or have a permit from VicRoads on private land that is over 1,000 square meters but less than 4,000 square metres in size.	3
3.19(2)	Failure to mark a property with its allotted address number so that it is clearly legible and visible from the road where the frontage is located.	1
3.20(1)	Failure to obtain a permit to discharge fireworks from Council land.	5
3.20(2)	Allowing land to be used for the conduct of a fireworks display which is not undertaken in accordance with the requirements of the <i>Dangerous Goods (Explosives) Regulations 2011</i> .	5

### BEHAVIOUR ON ROADS AND PUBLIC PLACES

Provision	Offence	Penalty Units
4.1(1)	Failure to mark a shopping trolley with the owner's name and contact number.	3
4.1(2)	Being in possession or control of a shopping trolley outside of a 200 metre radius from the retailer which provided the shopping trolley.	3
4.1(3)	Leaving a shopping trolley on a road, public place or vacant land.	3
4.2(4)	Smoking in any area designated by the Council as an area in which a person must not smoke.	2
4.3(1)	Failure to obtain a permit to drive or park a vehicle on a public place or reserve.	3
4.3(2)	Failure to obtain a permit to allow any vehicle currently registered or which has a permit from the Roads Corporation or any other relevant authority to be left standing continuously in any public place for a period in excess of seven consecutive days.	3
4.4(1)	Using a road or Council land to repair, paint, maintain or service a vehicle except where it is necessary to undertake minor repairs to get the vehicle underway or moving.	3
4.5(1)	Allowing a vehicle to be parked or left on a road or Council land for the purpose of exposing or displaying the vehicle for sale.	3
4.6(1)	Leaving an unregistered vehicle or abandoning any vehicle on any road or Council land.	3
4.7(1)	Failure to obtain a permit to camp on Council land, a public place or on any road unless within a caravan park licensed under the <i>Residential Tenancies Act 1997</i> .	3



Provision	Offence	Penalty Units
4.7(3)	Allowing camping on private land in excess of 28 days within a 12 month period unless a permit has been obtained or camping is permitted under the Planning Scheme.	3
4.7(4)	Failure to obtain a permit to keep or store more than one caravan on any land in a residential area unless permitted to do so under the Planning Scheme.	3
4.8(1)	Failure to obtain a permit to place a bulk rubbish container or clothing bin in or on Council land, a public place or road.	5
4.9(1)	Failure to obtain a permit to display a sign on any road.	3
4.9(2)	Failure to obtain a permit to do anything contrary to a sign erected by or on behalf of Council in a public place, reserve or road.	3
4.10(1)	Failure to obtain a permit to trade on a road or Council land.	3
4.10(2)	Failure to obtain a permit to sell goods or solicit or try to attract trade or business on vacant land or land which he or she does not ordinarily occupy.	3
4.11(1)	Failure to obtain a permit or relevant Council approval to use Council owned or managed land or facilities for the purposes of commercial gain or community events.	1
4.11(2)	Failure to obtain a permit to busk, fundraise or conduct a community awareness activity on any road or Council land.	1
4.12(1)	Failure to comply with any of the behaviour in a public place provisions contained in clause 4.12(1).	3
4.13(1)	Failure to comply with any possession or consumption of liquor conditions contained in clause 4.13.	5
4.13(3)	Failure to comply with a direction of an Authorised Officer or member of the Victoria Police to dispose of the contents of any container containing liquor which is unsealed.	5

### CONSTRUCTION AND PROTECTION OF COUNCIL ASSETS

Provision	Offence	Penalty Units
5.1(1)(a)	Failure to obtain an asset protection permit prior to causing or allowing entry to the building site with a motor vehicle having a gross weight exceeding two tonnes.	5
5.1(1)(b)	Failure to obtain an asset protection permit prior to causing or allowing a road to be occupied for the carrying out of any works in association with the building works or building site.	5
5.1(1)(c)	Failure to obtain an asset protection permit prior to causing or allowing the connection of land to a stormwater drain vested in Council's control.	5
5.1(1)(d)	Failure to obtain an asset protection permit prior to causing or allowing the opening, alteration or repair of a drain vested in Council's control in association with the building works or building site.	5



Provision	Offence	Penalty Units
5.1(1)(e)	Failure to obtain an asset protection permit prior to causing or allowing vehicular access to the building site from a point other than a vehicle crossing.	5
5.1(1)(f)	Failure to obtain an asset protection permit prior to causing or allowing vehicular access to the building site from a point other than a vehicle crossing.	5
5.1(1)(g)	Failure to obtain an asset protection permit prior to causing or allowing the carrying out of building works for which a building permit is required pursuant to the provisions of the Building Act 1993 where the estimated cost of works as shown on the building permit exceeds \$12,000.	5
5.1(3)(4)	Failure to comply with conditions of an asset protection permit.	5
5.2(1)	Occupying, obstructing or making unsafe a footpath, nature strip or road.	5
5.2(2)	Failure to obtain a permit prior to undertaking any activity which may damage, interfere with or destroy any asset under the control of Council.	5
5.3(1)(a)	Failure to obtain a permit to occupy or fence off a road or public place.	3
5.3(1)(b)	Failure to obtain a permit to erect a hoarding, gantry, scaffolding or site shed on a road or in a public place.	3
5.3(1)(c)	Failure to obtain a permit to use a crane, hoist, lift, travel tower or similar machinery or devices for any work on a road or in a public place.	3
5.3(1)(d)	Failure to obtain a permit to make a hole or excavation on a road or in a public place.	3
5.3(1)(e)	Failure to obtain a permit to fill a hole or excavation on a road or in a public place.	3
5.3(1)(f)	Failure to obtain a permit to remove, damage or interfere with a temporary traffic signal, sign, barrier or other structure erected to protect pedestrians or regulate traffic on a road or in a public place.	3
5.3(2)	Failure to obtain a permit to make a hole or excavation, or fill a hole or excavation on land abutting a road or public place.	3
5.4(1)(a)	Failure to construct an appropriate vehicle crossing.	4
5.4(1)(b)	Allowing a vehicle or recreational vehicle to enter or leave land except by a Council approved vehicle crossing.	4
5.4(1)(c)	Failure to obtain a permit to construct, install, alter or remove a vehicle crossing.	4
5.5(1)	Failure to obtain a permit to drive a vehicle on a road or bridge when the vehicle exceeds the weight limit indicated on a sign.	3
5.6(1)(a)	Failure to ensure that the land is adequately drained to the satisfaction of an Authorised Officer.	3
5.6(1)(b)	Failure to ensure that the land does not discharge water that is a nuisance to an occupier of adjoining land.	3
5.6(1)(c)	Failure to ensure that water does not discharge from an air conditioner or other equipment onto a footpath.	3
5.6(2)(a)	Failure to obtain a permit to alter the course of an overland flow of water, whether or not there is an easement over the flow path.	3



Provision	Offence	Penalty Units
5.6(2)(b)	Failure to maintain a private stormwater drainage system or on-site stormwater detention system serving a residential, commercial or other property where failure to do so causes a nuisance on other land.	3
5.6(2)(c)	Failure to carry out rectification or maintenance works when directed to do so by an Authorised Officer.	3
5.6(2)(d)	Carrying out works within or filling in drains located in any easement on the land.	3
5.7(3)	Failure to repair any damage to Council assets that occurs as a result of building works on the land for which a permit has been granted.	4

### **BUILDING & CONSTRUCTION SITES**

Provision	Offence	Penalty Units
6.1(1)	Failure to comply and ensure compliance with the requirements contained within the Building and Works Code of Practice.	3
6.2(1)	Failure to comply with any of the site identification provisions contained in clause 6.2.	3
6.3(1)	Failure to comply with any of the provisions to manage and minimise the risks of stormwater pollution contained in clause 6.3.	3
6.4(1)	Failure to ensure that the site is managed to minimise the risk of detrimental effects to the health and amenity of nearby residents through reduced visibility, reduced air quality and the effects of deposition of dust generated from the building site.	3
6.5(1)	Failure to provide a sewerer or chemical portable toilet on a building site prior to the commencement of any building work and/ or for the duration of the building work.	3
6.5(1)(b)	Failure to advise Council within 7 days of the installation of a sewerer toilet on a building site.	2
6.6(1)(a)	Failure to ensure that all building work is contained entirely within the building site.	3
6.6(1)(b)	Failure to ensure that no materials are deposited, stored or stockpiled on any part of the road without the approval of Council.	3
6.6(3)	Failure to comply with any of the site fencing provisions contained in clause 6.6(3).	3
6.7(1)	Failure to comply with any of the refuse facility provisions contained in clause 6.7.	3
6.7(2)	Failure to remove and lawfully dispose of all builders' refuse within fourteen days of completion of the building work or issuing of an occupancy permit, whichever occurs last.	3
6.8(1)(a)	Cause or allow works to be carried out on a building site outside of the hours of 7.00am and 8.00pm Monday to Friday.	3
6.8(1)(b)	Cause or allow works to be carried out on a building site outside of the hours of 9.00am and 8.00pm on any Saturday, Sunday or Public Holiday.	3



Provision	Offence	Penalty Units
6.8(1)(c)	Cause or allow the movement of vehicles or site preparation works on a building site before 7am weekdays and 9am on weekends.	3
6.8(1)(d)	Cause or allow the unloading of equipment, or deliveries to the site, or idling of vehicles before 7am on weekdays and 9am on weekends.	3
6.8(1)(e)	Cause or allow loud talking or use of radios on a building site before 7am on weekdays and 9am on weekends.	3
6.9(1)	Carrying out, or causing or allowing to be carried out any building works as to create a nuisance to another person.	3
6.10(1)	Failure to cease carrying out building works immediately or within any period determined by an Authorised Officer, when directed to do so by an Authorised Officer.	5

#### ADMINISTRATION

Provision	Offence	Penalty Units
7.6(2)	Failure to comply with the direction of an Authorised Officer.	5

#### ENFORCEMENT

Provision	Offence	Penalty Units
8.1(1)(d)	Failure to comply with a condition of a permit issued under this Local Law.	5