

Nillumbik General Local Law 1

General Local Law 1 was made by resolution of the Nillumbik Shire Council on X.

This version is effective from X

This document is version 1.1

VERSION HISTORY

Version number		Effective dates
1.1.0	Consultative draft versions	October 2021
2.0.0	Authorised for formal exhibition by Nillumbik Shire Council	X
3.0.0	Adopted by Nillumbik Shire Council	
4.0.0	Final Local Law	

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Part 1. Introductions and definitions

1. Title

This Local Law may be referred to as *Nillumbik General Local Law 1*

2. Objectives

The principal objectives of this Local Law are to:

- a) provide for the peace order and good government of the Nillumbik Shire Council; and
- b) promote a physical and social environment free from hazards to health, in which the residents of the **municipal district** can enjoy a quality of life that meets the general expectations of the community; and
- c) prevent and suppress nuisances which may adversely affect the enjoyment of life or the health, safety and welfare of persons; and
- d) prohibit, regulate and control activities which may be dangerous or unsafe or detrimental to the quality of life and the environment; and
- e) prohibit, regulate and control access to and behaviour in **municipal places**; and
- f) prohibit, regulate and control the use of **municipal recreation centres, municipal buildings, and municipal reserves**; and
- g) protect public assets vested in **Council** from damage, accelerated deterioration or abuse during the **building** process or at other times; and
- h) provide a physical environment which aims to minimize hazards to health and safety of persons attending building sites and those adjacent, opposite or passing building sites; and
- i) prohibit, regulate and control the presence of and disposal of **builders' refuse**, rubbish and soil on and from building sites within the **municipal district**, particularly litter and stormwater pollution to protect receiving waterways; and
- j) define the standards to which persons engaged in **building work** should adhere; and
- k) educate and induce persons involved in **building work** to act responsibly to reduce the extent and cost of infrastructure damage for the benefit of the wider community; and
- l) provide for the consistent application and enforcement of this Local Law.

3. The power to make this Local Law

This Local Law is made under section 71(1) of the Local Government Act 2020 (**the Act**) and Part 3 of the *Domestic Animals Act 1994*.

4. Commencement

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

5. Revocation

The following Local Laws are hereby revoked:

- a) Infrastructure Assets Local Law 2013;
- b) Amenity Local Law 2013;
- c) Meeting Procedure Local Law 2017; and
- d) Prohibition of Fireworks Local Law 2019.

6. Cessation

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

7. Application

- a) This Local Law applies and operates throughout the whole of the **Municipal District**.
- b) This Local Law does not apply where any act or thing otherwise prohibited is authorised by any Act, Rule, Regulation or Planning Scheme

8. Exemptions from this Local Law

Nothing in this Local Law prevents any member, officer or employee of:

- a) an emergency service, or
- b) a State or Commonwealth government, or
- c) any military or civil-defence organisation, or
- d) the **Council**, or
- e) a contractor directly engaged by the **Council** to undertake **works** or to provide a service; from performing any of the duties they are lawfully entitled or required to perform while engaging in those duties and any person acting accordingly is not guilty of any **offence** under this Local Law.

9. Incorporated documents, codes and policies

- a) This Local Law is to be read in conjunction with any document incorporated in accordance with section 76 of **the Act**.
- b) The following documents are incorporated into this Local Law, in accordance with section 76 of **the Act**:

A) Nillumbik Live Local Plant Local

10. Definitions

- a) In exercising its powers and performing its functions under this Local Law, **Council** may have regard to any guidelines, policies, **codes** or standards it has adopted for the purpose of the Local Law.
- b) Unless the contrary intention appears in this Local Law, the following words are defined as follows:

'the Act' means the Local Government Act 2020.

'activity centre zone' means any land located within the **activity centre zone** as defined by the Nillumbik Planning Scheme

'advertising sign' means any placard, board, sign, card or banner, whether portable or affixed or attached to any land or **building**, which:

- a) provides information about the **occupier** of the land or **building**, or a business or industry; or
- b) advertises goods, services, an **event** or a competition.

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

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

'animal' includes any mammal and bird.

'appointed agent' means the person authorised in writing by an **owner** of a **building** or land to make an application, appeal, referral or representation on their behalf, or act on behalf of the **owner** in matters of **Council** enforcement.

'approved waste bins' - means household **waste** bin for landfill waste, recyclable materials, green (garden and food) waste or any future source separated waste stream introduced by **Council**, supplied by, or on behalf of, **Council**, or otherwise approved by **Council**;

'asset protection bond' - means a payment or guarantee made to **Council** for the purposes of securing public assets and infrastructure from the cost of damage during **building work**;

'asset protection permit' means a **permit** issued by **Council** for the protection of public assets and infrastructure during **building work**, in accordance with Clause 82 of this Local Law.

'assistance animal' has the same meaning as the Disability Discrimination Act 1992.

'authorised officer' means any person appointed by the **Council** to be an Authorised Officer under section 224 of **the Act** and includes members of Victoria Police who are appointed under that section.

'builder' means a person who:

- a) carries out **building work**, or
- b) manages or arranges the carrying out of **building work**, or
- c) intends to carry out, or to manage or arrange the carrying out of, **building work**.

'builders' refuse' includes any solid or liquid domestic or commercial **waste**, debris or rubbish, and without limiting the generality of the above, includes **waste** material, **waste** substance or thing generated by or in connection with **building work**.

'building' includes any structure, whether temporary or permanent, or any part of such structure, and includes incomplete structures.

'building site' means the land on which building work is being undertaken.

'building work' means work for or in connection with the construction, renovation, alteration, demolition, relocation or removal of a **building** including landscaping, concreting and subdivision **road** construction.

'bulk rubbish container' Includes trade **waste** storage bins, mini skips, shipping containers, pallets and any other structure designed to receive or store **waste** but does not include **approved waste receptacles**.

‘camping’ means the use of any tent, **caravan**, motor home or temporary structure for the purpose of accommodating people

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

‘caravan’ Means a structure, other than a **building**, used on land for residential purposes and it includes a **vehicle**, a movable dwelling, and a **vehicle** as defined under section 3 (1) of the *Road Safety Act 1986*.

‘CFA’ means the Country Fire Authority.

‘chimney’ means a permanently fixed structure which provides ventilation for hot flue gases or **smoke** from the combustion of a fuel, such as wood.

‘code’ - means set of procedures or rules as adopted by **Council**;

‘commercial zone’ - means a commercial zone under the Nillumbik Planning Scheme

‘completion of the building work’ means:

- a) in relation to **building work** that requires an occupancy **permit** to be issued (or its equivalent), the date the occupancy **permit** is issued, and
- b) in relation to **building work** that requires a certificate of final inspection to be conducted (or its equivalent), the date the final inspection is conducted, and
- c) in relation to **building work** that does not require an occupancy **permit** or a final inspection, the date the **works** being undertaken needs no further substantive work for it to be used or enjoyed for the purpose for which it is being constructed.

‘Council’ means Nillumbik Shire **Council**.

‘council land’ - means any land which **Council** occupies, manages, has leased or licenced to another person or is otherwise under Council’s control and managed, other than a **road**;

‘dwelling’ means any **building** or portion of a **building** which is used, intended,

adapted or designed for use for living;

'DELWP' means Department of Environment, Land, Water and Planning.

'earth works' means land forming, laser grading, levee banks, raised access roads and tracks, building pads, storage embankments, channel banks and drain banks and associated structures.

'emergency service' means

- a) Victoria Police,
- b) Fire Rescue Victoria,
- c) Country Fire Authority,
- d) Ambulance Victoria,
- e) State Emergency Service,
- f) any organization whose primary function is the provision of first aid response, and
- g) any successor to any named organisation above,

and includes all members of the above organisations when engaged in *bona fide* operational activities.

'environmental weed' means any weed that **Council** has, in a public notice, declared to be an environmental weed.

'ESTA' means Emergency Services Telecommunications Authority.

'event' means an organised and planned activity, held on or within a **Council** owned or managed area or facility and publicised and open to the general public to attend where more people are usually found in that location at one time.

'fire danger period' - means the period declared pursuant to the *Country Fire Authority Act 1958* to be a **fire danger period**;

'fire hazard' - includes anything that, because of its flammable nature, its position or its quantity, exposes people, **property** or **livestock** to significant risk or harm,

damage or destruction by fire;

'FRV' means Fire and Rescue Victoria.

'landfill waste' means all **waste** produced or accumulated in or on any **property**, but does not include, to be disposed of in Council's approved landfill waste bin but does not include:

- a) slops or liquid wastes,
- b) **recyclable goods** or garden refuse of a type which **Council** disposes or collects on a regular basis,
- c) **waste** generated from **building work**;
- d) **waste** generated from the restoration, repair or servicing of **motor vehicles**,
- e) ash, unless it is cold, dampened wrapped or contained in a manner which prevents its escape,
- f) trade **waste**,
- g) oil, paints, solvents, herbicides and similar chemical substances (except paint residue contained in a sealed container),
- h) hazardous chemicals,
- i) volatile, explosive or flammable substances,
- j) any **waste** that cannot be contained in an approved **landfill waste** receptacle due to its size, shape, nature or volume,
- k) medical or veterinary **waste**,
- l) any other substance declared by the **Council** or an **authorised officer** not to constitute **'landfill waste'** for the purposes of this Local Law.

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

'grazing' – means to allow **livestock** to enter or remain on a **road** or **Council Reserve** for the purpose of feeding

'hard waste' means waste material placed out for collection in accordance with Council's hard waste service guidelines;

'impound' means the seizing or taking possession of any item and includes the holding of that item at any location until the item is returned, released or disposed of.

'Incinerator' an apparatus used for burning waste at high temperatures until it is reduced to ash

'industrial zone' means an industrial zone under the Nillumbik Planning Scheme

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

'Infringement notice' - means an notice of infringement issued by an **authorised officer** in respect to an **offence** against the Local Laws;

'kennel' – housing, including internal fencing used to contain a dog.

'large bird' means any pigeon, cockatoo or other bird of similar or larger size of any age but does not include **poultry**.

'livestock' includes a cow, horse, pig, donkey, alpaca, llama and an **animal** of any species used in connection with primary production or kept for recreational purposes other than a dog or cat.

'motor vehicle' has the same meaning as in the *Road Safety Act* 1986.

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

'municipal building' means a **building**:

- a) that is owned, occupied or controlled by **Council**, or
- b) that is under the care or management of **Council**.

'municipal district' has the same meaning as in **the Act**.

'municipal place' means land which is owned, occupied or managed by **Council** including any lake or watercourse on the land, but excluding a **road** and a public place.

'municipal recreation centre' means any **municipal building** containing or associated with a tennis court, pool, spa, sauna , public bathing facilities, and

includes all land and outdoor areas associated with or accessible from the **municipal building**.

'municipal recycling centre' means the **Council** recycling centre

'municipal reserve' means any land within the **municipal district** that is owned, occupied or managed by the **Council** including any structure, fixture, fitting and garden on or at the land, but does not include a municipal building or **municipal recreation centre**.

'notice to comply' means a **notice to comply** issued in accordance with Clause 99 of **the Act**.

'noxious weed' has the same meaning as the *Catchment and Land Protection Act 1994*.

Explanatory note

The *Catchment and Land Protection Act 1994* defines **noxious weed** to mean:

- a) a State prohibited weed,
- b) a regionally prohibited weed,
- c) a regionally controlled weed or
- d) a restricted weed.

A full list of noxious weed species can be obtained from **Council**, or from DEWLP

'nuisance' - means any behaviour or condition which is or is liable to be dangerous to health or is noxious, annoying or injurious to personal health

'occupier' means the person who is for the time being in charge of the land and includes:

- a) a person who manages any land on behalf of the land's **owner**; and
- b) a person who is responsible for the care and control of any land; and
- c) a lessee or licensee of any land;

'offence' – means an **offence** against or a breach of a provision of this Local Law, or of a **permit**, **notice to comply** or direction issued under this Local Law

'official warning' has the same meaning as in the *Infringements Act 2006*.

'owner' means:

- a) in relation to a **building**, the **owner** of land on which the **building** is situated, and
- b) in relation to a **motor vehicle**
 - i. the **registered owner** of the **motor vehicle**, and
 - ii. a person who has possession of the **motor vehicle**, and
- c) in relation to **livestock**, means
 - i. a person who is entitled to legal or equitable possession of **livestock** whether solely or jointly, and
 - ii. a person who has custody of **livestock** on behalf of a person referred to in paragraph (c)(i).

'parking area' has the same meaning as in the *Road Safety Road Rules 2017*.

Explanatory note

The *Road Safety Road Rules 2017* defines a **parking area** to mean:

a length of road or area designed for parking vehicles

'penalty unit' has the same meaning as in section 110 of the *Sentencing Act 1991*.

'permit' (except in connection with an **asset protection permit** issued in accordance with Clause 82) means a **permit** in writing issued in accordance with Part 11.

'policy' means a document or set of procedures adopted to regulate the implementation of this local law.

'poultry' – excludes a rooster

'poultry house' **'aviary'** and **'pigeon loft'** means any **building** or structure or part thereof for the housing or use of **poultry**, birds or pigeons (respectively) and any area of land adjacent to it, which is used as the pen, compound or yard for such **poultry**, birds or pigeons.

'premises' refers to a house or a building together with its land and outbuildings.

'private land' means any land which is not owed or occupied or under the control or management of a public body.

'property' means any land, **building** or **dwelling** in separate ownership or separate occupation within the **municipal district** and includes premises, crops, trees and other improvements.

'public land' means any land to which the public has reasonable access.

'public place' has the same meaning as in the *Summary Offences Act 1966*.

Explanatory note

The *Summary Offences Act 1966* defines public place as follows:

'public place' includes and applies to—

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

- n) any place of public resort;
- o) any open place to which the public whether upon or without payment for admittance have or are permitted to have access; or
- p) any public place within the meaning of the words 'public place' whether by virtue of this Act or otherwise.

'recreational vehicle' means any mini bike, trail bike, motor bike, motor scooter, go-cart or other **vehicle** propelled by a motor which is used for recreational purposes, but does not include:

- a) a **vehicle** whilst engaged in legitimate farming activities, or
- b) a motorised wheelchair, or
- c) a motor-assisted bicycle with a motor with less than 200 watts capacity.

'recyclable material' means any substances or articles declared by the **Council** or an **authorised officer** to be **'recyclable material'** for the purposes of this Local Law from time to time.

'registered' in relation to any **vehicle** means that the **vehicle** is registered in accordance with the *Road Safety Act 1986*.

'residential zone' - means a **residential zone** under the Nillumbik Planning Scheme;

'retailer' means a person or business that sells goods to the public.

'road' has the same meaning as in Part 2 of the **Road Safety Road Rules 2017**, and the phrase **'road'** (including a **road** reserve, footpath or nature strip) is used interchangeably and is not intended to expand or vary the meaning of **'road'**.

'rural zone' - means a **rural zone** under the Nillumbik Planning Scheme, which includes the Green Wedge and Rural Conservation Zones

'sell' include -

- a) sell by means of any machine, electronic device or mechanical device; or
- b) barter or exchange; or

- c) offer or expose for sale; or
- d) keep or have in possession for sale; or
- e) agreeing to, directing, causing or attempting to do any of such acts or things.

‘shipping container’ means a container with strength suitable to withstand shipment, storage and handling.

‘shopping trolley’ means a **vehicle** used primarily for the carriage of goods by customers.

‘single use plastic’ means plastic items intended to be used only once before they are thrown away or recycled and includes plastic bags, straws, cutlery, plates, drink-stirrers, expanded polystyrene food and drink containers, balloons and cotton bud sticks.

‘smoke’ - means to:

- (a) smoke, hold or otherwise have control over an ignited tobacco product; or
- (b) light a tobacco product; or
- (c) a visible suspension of carbon or other particles in air, typically one emitted from a burning substance.

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

‘substantial tree’ means vegetation that has a trunk circumference greater than 0.5m at one metre above ground level

‘toy vehicle’ means a **vehicle** designed to be propelled by human power and includes a scooter, a skateboard, roller skates, roller blades and similar toys and includes vehicles propelled by a motor of less than 200 watts but does not include:

- a) a motorised wheelchair used by a person of impaired mobility, or
- b) a pram or pusher when used for its intended purpose.

‘traffic control item’ means any sign, mark, structure or device displayed, placed or erected for the purpose of controlling, directing, guiding, regulating or warning drivers or pedestrians, and includes a device, however operated, which uses words symbols or lights to control or regulate traffic.

‘tree protection zone’ means the area surrounding a **substantial tree’s** trunk, being a circular area below the tree extending at equal distances from the tree base in all directions, the radius of which is 12 times the trunk diameter measured at 1.5 metres above ground level, to a maximum of 15 metres.

‘unsightly land’ - means **land** which contains one or more of the following features

- i. unconstrained waste; or
- ii. excessive vegetation growth that is not consistent with the appropriate ecological vegetation class of that area; or
- iii. a source of infestation; or
- iv. a haven for vermin; or
- v. a haven for environmental or **noxious weeds**; or
- vi. a disused excavation, or
- vii. **waste** material, or
- viii. graffiti on exterior walls or fences; or
- ix. a **building** which is incomplete and not currently being constructed, or
- x. a **building** or other structure or thing which is detrimental to the amenity of the area; or
- xi. second-hand timber or second-hand building materials; or
- xii. no more than two unregistered, derelict or abandoned vehicles;
- xiii. any other item or combination of items that in the opinion of an authorised officer is detrimental to the amenity of the area.

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

‘vehicle crossing’ includes all land and **works** between a **property** and the carriageway of an adjoining **road**, used or designed to be used for access by vehicles.

‘vehicle’ includes any conveyance propelled or drawn by human, **animal**, mechanical, electrical or other power.

‘waste’ includes any of the following—

- a) matter, including solid, liquid, gaseous or radioactive matter, that is deposited, discharged, emitted or disposed of into the environment in a manner that alters the environment;
- b) a greenhouse gas substance emitted or discharged into the environment;
- c) matter that is discarded, rejected, abandoned, unwanted or surplus, irrespective of any potential use or value;

‘works’ means any excavation or the introduction of fill (soil) that alters the natural topography of the land.

Part 2. The Common Seal

11. Use of the Common Seal

The Common Seal is the corporate signature of **Council**, and exists in the form of a stamp. It evidences and authenticates decisions taken by **Council**.

12. Authority for use of Common Seal:

The Common Seal may be used only on the authority of **Council**.

13. Keeping of the Common Seal

- a) The Chief Executive Officer must keep the Common Seal securely at the Council's offices.
- b) The Chief Executive Officer must keep a register of documents to which the Common Seal has been affixed.

14. Signatures to accompany Common Seal

Every document to which the Common Seal is affixed must be signed by one Councillor and the Chief Executive Officer or some other senior officer authorised by the Chief Executive Officer.

15. Unauthorised use of the Common Seal

Any person who uses the Common Seal or any device resembling the Common Seal without authority is guilty of an **offence**.

Part 3. Municipal Places, Buildings and Reserves

16. Behaviour in municipal places

A person must not:

- a) create a nuisance in a **municipal place**;
- b) interfere with another person's use and enjoyment of a **municipal place**;
- c) act in a manner which endangers any other person in a **municipal place**;
- d) remain in a **municipal place** while under the influence of **alcohol** or any prohibited drug;
- e) without a permit, sell alcohol in a **municipal place**;
- f) use indecent, insulting, offensive or abusive language in a **municipal place**;
- g) behave in an indecent, offensive, insulting or riotous manner in a **municipal place**;
- h) destroy, damage, interfere with or deface a **municipal place** or anything located there, without the written consent of the **Council**;
- i) remove any thing from a **municipal place**, without the written consent of **Council**;
- j) act in a manner contrary to any restriction, prohibition or direction contained in the inscription on a sign in a **municipal place**;
- k) deposit or discard any litter or used syringe in a **municipal place**, except in a receptacle provided for that purpose;
- l) without a **permit**, **sell** any goods or services in a **municipal place**;
- m) without a **permit**, erect, affix or place any advertisement in a **municipal place**;
- n) without a **permit**, erect, operate or cause to be erected or operated any amusement in a **municipal place**;
- o) obstruct, hinder or interfere with any member of staff of the **Council** in the performance of his or her duties at a **municipal place**;
- p) use or interfere with any lifesaving or emergency device located within a **municipal place**, unless using the device in an emergency or participating in instruction or maintenance approved by the **Council**;
- q) act in a manner that is likely to interfere with the reasonable use and enjoyment of the **municipal place** by other persons.

17. Access to municipal places

- a) The **Council** may:
 - i) determine the hours when a **municipal place** will be open to the public;
 - ii) restrict access to a **municipal place** or part of a **municipal place**;
 - iii) authorise any person to occupy a **municipal place** or to restrict access to the **municipal place**;

- iv) close a **municipal place** or part of a **municipal place** to the public; and
 - v) charge fees, or authorise any other person to charge fees, for admission to or the use of a **municipal place** or part of a **municipal place**.
- b) The **Council** may establish:
 - i) conditions applying to and fees or charges for admission to or the hire or use of a **municipal place** or part of a **municipal place**; and
 - ii) conditions applying to and fees or charges for hire or use of any **property** of the **Council** in connection with a **municipal place**.
- c) A person must not, without the consent of the **Council**:
 - i) enter a **municipal place** other than through an entrance provided for that purpose;
 - ii) enter or remain in a **municipal place** during hours when the **municipal place** is not open to the public;
 - iii) enter or remain in a **municipal place** without the applicable fee or charge having been paid.
 - iv) organise, conduct or hold any function or **event** in a **municipal place**.

18. Behaviour in municipal buildings

A person must not, without the written consent of the **Council**:

- a) organise, conduct or hold any function or **event** in a **municipal building**;
- b) bring any **animal** into, or allow any **animal** under his or her control to remain in, a **municipal building**, except for an **assistance animal** being used by a person with a disability;
- c) bring any **vehicle** or **toy vehicle** into a **municipal building**,
- d) **smoke** any tobacco product inside or within 10 metres of any entry or exit of a **municipal building**;
- e) bring into a **municipal building** any substance, liquid or powder which may:
 - i) be dangerous or injurious to health, or
 - ii) have the potential to foul, pollute or soil any part of the **municipal building**; or
 - iii) cause discomfort to persons.

19. Activities prohibited in a municipal reserve

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

- a) enter upon or remain on any area set aside as a playing ground during the course of an organised sporting match or gathering, unless they are a player or official or a competitor at the sporting match or gathering;
 - b) destroy, damage, climb on, remove or interfere with any flora;
 - c) destroy, damage, climb on, remove or interfere with any structure;
 - d) throw any stones or missiles;
 - e) use any children's playground equipment other than for the purpose for which it was designed;
 - f) Enter a **municipal reserve**, or a part of a **municipal reserve**, in contrary to signage placed clearly prohibiting access to the **municipal reserve** or part of the **municipal reserve**;
 - g) swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain;
 - h) throw, place or cause or allow to be thrown or placed any liquid or waste into any wetland, lake, pond or fountain;
 - i) play, engage in or practice any game, sport or activity, or use any facilities or spaces, (whether or not a **permit** has been issued under this Local Law), in a manner that is:
 - i) dangerous to any person or **property**; or
 - ii) likely to interfere with the reasonable use and enjoyment of the **municipal reserve** by any other person;
 - j) walk on or damage any plot, bed, border, closed track, replanting area or other area set aside for plants;
 - k) post bills or advertisements on any
 - i) fence, gate, wall, seat, or other structure, or
 - ii) vegetation
- without the written consent of the **Council**.

20. Activities which may be permitted in **municipal reserves**

In a **municipal reserve**, a person must not without a **permit**:

- a) ride or drive a **vehicle** or horse except for -
 - i) parking a **vehicle** in a **parking area** established for that purpose;
 - ii) wheeling a bicycle, pram, baby or child carriage, wheelchair or children's toy along a footpath;
 - iii) riding a bicycle or horse in a manner that does not interfere with the use or enjoyment of the **municipal reserve** by any other person;

- iv) on a **road** or bicycle path in accordance with any applicable Acts or regulations;
- b) light a fire or allow any fire to remain alight except in a barbecue provided by the **Council**;
- c) pitch, erect or occupy any camp, tent, **caravan**, **mobile dwelling** or temporary structure;
- d) hold a circus, carnival, festival, fete or other **event** likely to be attended by members of the public
 - i) No **permit** will be granted for any circus that uses **animals** in its performances;
 - ii) No **permit** will be granted for a circus, carnival, festival, fete or other **event** unless it can be shown that no **single use plastics** will be utilised during the circus, carnival, festival, fete or other **event**.
- e) operate any device that has a predominant purpose of amplifying voice, music or noise;
- f) Drive, allow to be driven, fly or allow to be flown any drone or other type of flying **vehicle**, whether or not equipped with a camera, in or over a municipal land, unless in a reserve designated for that activity;
- g) conduct activities connected with a fitness, exercise or personal training business, group or organisation;
- h) otherwise engage in any organised activity which may interfere with the reasonable enjoyment of the **municipal reserve** by any member of the public.

21. Council Signs

Without a **permit** a person must not do anything on **Council** land contrary to a sign erected by the **Council**

Part 4. Consumption Of Liquor In Public Places

22. Liquor

- a) Without a **permit**, a person must not consume liquor, or be in possession of liquor in an open container, in a prescribed area (as described in Clause 23) during a 'no **alcohol**' period for that area (as described in Clause 23).
- b) A person who is in or on a **vehicle** is to be taken to be in a prescribed area only if that **vehicle** is stationary.

23. Prescribed areas

- a) The **Council** may by resolution, or by a delegate if this matter is the subject of delegation, specify areas of the municipality to be prescribed areas for the purposes of Part 4 of this Local Law.
- b) The **Council**, or a **Council** delegate, may at the time of specifying an area to be a prescribed area specify in relation to that area:
 - i) periods of the year; or
 - ii) periods of the week; or
 - iii) periods of the day, or
 - iv) specified days that are to be 'no **alcohol**' periods.
- c) If no period is specified in relation to an area, the 'no **alcohol**' period for that area is every day and 24 hours a day.
- d) If the **Council**, or a **Council** delegate, prescribes an area to be a prescribed area, it shall:
 - i) give public notice accordingly; and
 - ii) ensure that a description of the area is available for inspection at the offices of the **Council** during normal business hours.

24. Exemptions under Part 4

This Part does not apply to:

- a) 'authorised premises' or 'licensed premises' within the meaning of the *Liquor Control Reform Act 1998*; or
- b) Consumption of liquor at an organised **event** for which a **permit** under this Local Law has been granted.

Part 5. Specific Activities

25. Signs, goods and furniture

- a) A person must not, without a **permit**:
- i) erect, fix or place any **advertising sign**
 - ii) stop, stand or leave any **vehicle** for the purpose of displaying on the **vehicle** any **advertising sign**
 - iii) display or allow to be displayed any goods on a **road** or footway;
 - iv) place or allow to be placed a seat, umbrella, table, chair, planter box, heater or other items on a **road** or footway;
- b) A person who has placed, allowed to be placed, displayed or allowed to be displayed:
- i) goods; or
 - ii) an advertising sign; or
 - iii) a seat, umbrella, table, chair or other furniture -
- on a **road** (including a road reserve, footpath or nature strip) or **public place**, (whether or not in accordance with a **permit**), must move or remove it or them if directed to do so by:
- iv) an authorised officer; or
 - v) a member of an emergency service.
- c) an authorised officer may impound any:
- i) goods; or
 - ii) advertising sign; or
 - iii) seat, umbrella, table, chair or other furniture-
- placed or left in contravention of this Local Law or a condition of a **permit** issued under this Local Law.

26. Open air performances and busking

A person must not undertake any open air performance or busking activities on a **road** (including a road reserve, footpath or nature strip), or **public place**, without a **permit**.

27. Aerosol spray paint containers

A person who:

- a) offers an aerosol spray paint container for sale; or

- b) owns, operates or manages a business from **premises** on which an aerosol spray paint container is offered for sale;

must not allow any aerosol spray container to be stored or displayed unless the aerosol spray paint container is in a locked display cabinet which is not accessible to the public without the assistance of a person employed by the business.

28. Clothing recycle bins

- a) A person must not place a clothing recycling bin on **municipal place** without a **permit**.
- b) A person must not place a clothing recycling bin on any **private land** without a **permit**.
- c) An **authorised officer** may **impound** a clothing recycling bin which is placed on any land contrary to clause 28 a) or 28 b).
- d) A person must not:
 - i) interfere with a clothing recycling bin; or
 - ii) deposit goods near or around a clothing recycling bin; or
 - iii) remove the contents of a clothing recycling bin;

unless the person is an employee, agent or contractor of the person who placed the bin.

29. Charitable collections

Without a **permit** a person must not in a **public place** solicit or collect money or any articles from any person, or cause or authorise another person to do so.

30. Distribution of notices, advertising material

- a) Without a **permit** a person must not on a **road** or **municipal place**:
 - i) distribute any handbill or any other unsolicited material;
 - ii) broadcast any advertising material; or
 - iii) **sell** any goods or services.
- b) Clause 30 a) does not apply to electoral material for any election of the **Council** or any State or Commonwealth election in an electorate, encompassing any part of the **municipal district** for a period of four weeks before the election

31. Shopping trolleys

- a) A person must not leave a **shopping trolley**:
 - i) on a **road** (including a road reserve, footpath or nature strip), or

- ii) in a **public place**, or
- iii) in a car park vested in the **Council**

except in an area designated for the leaving of shopping trolleys.

- b) An **authorised officer** may **impound** any **shopping trolley** left contrary to paragraph a).
- c) If a **shopping trolley** is left on a **road** or **Council land** in contravention of paragraph a), the **owner** of the **shopping trolley** is also guilty of an **offence**.

32. Trading activities

- a) Without a **permit** a person must not **sell**, barter or trade from any car, **caravan**, trailer or any other **vehicle** on:
 - i) a **road** (including a road reserve, footpath or nature strip); or
 - ii) a **public place**;
- b) The **Council** may exempt from the application of paragraph a):
 - i) a person; or
 - ii) a body corporate-

33. Scare guns

- a) Without a **permit** the **owner** or **occupier** of land which is in a **rural zone** must not use or allow the use of scare guns (including scatter guns and gas guns) on the land.
- b) The **owner** or **occupier** of land which is not in a **rural zone** must not use or allow the use of scare guns (including scatter guns and gas guns) on the land.

Part 6. Animals

34. Collection and disposal of animal excrement

- a) A person who is in charge or control of any **dog** in or on a **public place** must:
- i) not allow any part of the excrement from the **dog** to remain on any **road** (including a road reserve, footpath or nature strip) or **public place** or any other land not occupied by that person; and
 - ii) ensure that the appropriate means by which to collect and dispose of the dogs excrement are carried by any person in apparent control of the dog; and
 - iii) carry a minimum 3 receptacles for the disposal of that dogs excrement; and
 - iv) for the purposes of paragraph (a)(ii), a person in apparent control of the dog must produce the receptacle(s) to an authorised officer when requested.
- b) A person who is in charge or control of any **livestock** in or on a **public place** must not allow any part of the excrement to remain on a paved surface specifically designed for pedestrian use.
- c) A person must not allow any **animal** excrement to be moved (whether by washing, sweeping or otherwise) from any **property** on to a **road** (including a road reserve, footpath or nature strip).

35. Keeping animals

- a) Without a **permit**, an owner or occupier of:
- i) any land having an area less than or equal to 1,000m² must not keep or allow to remain on the land more **animals** than the amount specified in **Column 2 in Table 1**, of the kind of **animal** specified in **Column 1 of Table 1**, and must not keep more than 20 **animals** of any kind, and
 - ii) any land having an area less than or equal to 4,000m² must not keep or allow to remain on the land more **animals** than the amount specified in **Column 3 in Table 1**, of the kind of **animals** specified in **Column 1 of Table 1**, and must not keep more than 20 **animals** of any kind, and
 - iii) any land having an area greater than 4,000m² must not keep or allow to be remain on the land more than the amount of **animals** specified in **Column 4 in Table 1**, of the kind of animals specified in **Column 1 of Table 1 and**

- iv) any land having an area less than 1,000m² must not keep **livestock**, or allow any **livestock** to remain on the land, and
 - v) any land having an area less than or equal to 4000m² must not keep a rooster, or allow a rooster to remain on the land.
- b) Clause 35 a) does not apply to any land used to conduct a pet shop in accordance with a valid Domestic Animal Business **permit**, within the meaning of the *Domestic Animals Act* 1994.
- c) All **permits** issued under Clause 35 a) for the keeping of excess dogs and cats will only be approved if all dogs and cats associated with the **permit** are desexed prior to the issue of the **permit**. Dogs or cats are exempt if registered with an applicable organisation in accordance with the Domestic Animals Act 1994, have an approved Domestic Animal Business Permit or for health reasons approved by veterinarian.

Column 1 – Type of animals	Column 2 – Land less than 1000m ²	Column 3 – Land sized 1000m ² to 4000m ²	Column 4 – Land greater than 4000m ²
Dogs	2	2	2
Cats	2	2	2
Large birds	5	10	10
Poultry	5	10	24
Roosters	Not permitted	Not permitted	Permit required
Other livestock	Not permitted	Permit required	Not limited by this Local Law
MAXIMUM TOTAL OF ANIMALS OF ANY KIND	20	20	Not limited by this Local Law

Table 1. Maximum permitted animals without a permit

- d) For the purposes of paragraph a), any of the following animals are not counted:
- i) any **large bird** or **poultry** that is less than 12 weeks old,
 - ii) any dog or cat that is less than 3 months old.

Explanatory note:

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

36. Animal buildings and cleanliness

- a) A person must not:
- i) erect or use, or
 - ii) allow the erection or use,
- of a kennel, **poultry house** or **pigeon loft** unless it is:
- iii) in the case of a **kennel**, at least 1 metre from the boundary of any adjoining land, and
 - iv) in the case of a **poultry house** or a **pigeon loft**, at least 10 metres from any neighbouring **dwelling**.
- b) A person must not keep:
- i) any poultry other than in a **poultry house**; or
 - ii) any pigeons other than in a **pigeon loft**.
- c) An **owner** or **occupier** of any land on which an **animal** is kept must ensure that the part of the **property** in which the **animal** is kept or which is used by the **animal** is:
- i) maintained in a clean, inoffensive and sanitary condition; and
 - ii) maintained so as not to cause a **nuisance** to any person or to be offensive, injurious to health or dangerous; and
 - iii) provided with adequate clean drinking water; and
 - iv) provided with adequate sustenance; and
 - v) provided with adequate shelter
- to the satisfaction of an **authorised officer**.
- d) An **owner** or **occupier** of land on which any **animal** is kept must ensure that all food for consumption by animals (except hay) is kept or stored in rodent-proof receptacles or rodent-proof buildings.

37. Animal noise

- a) An **owner** or **occupier** of any land must take all **reasonable steps**:
- i) to prevent any **animal** making **unreasonable noise** on the land or to prevent any noise caused by an **animal** being emitted from the land which in the opinion an **authorised officer** is:
 - A) unreasonable or objectionable to a person on other land or premises or;

- B) adversely **affects the amenity** of any person on other land or premises.
- b) For the purposes of paragraph a), in determining whether noise is **unreasonable, objectionable or adversely affecting the amenity**, regard must be had to:
 - i) its volume, intensity or duration; and
 - ii) the time, place and other circumstances in which it is emitted.
- c) For the purposes of paragraph a), **reasonable steps** to prevent the noise include (but are not limited to):
 - i) identifying and modifying stimuli or conspicuous causes of the animal's behaviour, and
 - ii) controlling or modifying the physical environment in which the **animal** is kept, and
 - iii) (where the **animal** causing the noise is a dog) the **owner** and the dog participating in dog behavioural training, and
 - iv) obtaining advice from a veterinarian or **animal** behaviourist and implementing that advice, and
 - v) securing the **animal** within a **dwelling** unless supervised by a person capable of preventing the **animal** from making **unreasonable or objectionable noise**, or noise **adversely affecting the amenity** of any person on other land or premises, and
 - vi) considering removal of the **animal** from the land or **dwelling**, and
 - vii) keeping records of any steps taken, including the dates and times that steps were taken and the effectiveness of such steps, and providing those records to the **Council** upon request by an **authorised officer**.

38. Feeding of wild birds on private land

- a) An **occupier** of land must not:
 - i) Feed or continue to feed; or
 - ii) Allow or cause to be fed
- b) Any bird on that land if:
 - i) that bird is not ordinarily kept on the land; and
 - ii) the circumstances in which the bird is fed are likely to or do interfere with the material comfort of any other person or the enjoyment by any other person of their land; and
 - iii) it may affect the health of the bird

Explanatory Note:

Feeding animals inappropriate food can cause them dietary problems. This can make them sick and die a premature or painful death.

When birds 'gorge' themselves on white bread they stop eating their natural foods, which are more nutritious. The birds can then become malnourished. Birds can also choke on wads of bread.

Food left lying around can become stale and grow fungi that are poisonous to wildlife. It can also encourage rodents to infest areas.

It can encourage introduced animals to the area where native wildlife then have to compete for the habitat.

Artificial feeding can alter the natural balance between life and death. This can lead to sick animals being kept alive and possibly transmitting their disease throughout their population or into other populations.

Artificial feeding can make wildlife an easy target for predators such as foxes, dogs and cats.

Young birds are not taught by their parents how to forage for natural foods – they then risk starvation

39. Use of Council land for movement or grazing of livestock

- a) A person must not allow any **livestock** to be at large in any **public place**.
- b) A person must obtain a **permit** to graze allow any **livestock** under their control to graze on a **road** or **Council land**.

40. Bees and Wasps

- a) An **owner** or **occupier** of land who keeps or allows bees to be kept on that land must do so in accordance with the Apiary Code of Practice.
 - i) Clause 40 a) does not apply to a person who keeps or allows bees to be kept on the land where a planning **permit** has been issued for such use.
- b) An **owner** or **occupier** of land must not allow or suffer any bees on the land to cause a **nuisance** to any person.
- c) An **owner** or **occupier** of land must not allow or suffer English wasps or European wasps to nest on the land, and, upon becoming aware of the existence of a wasp nest on the land, must take reasonable steps to cause the nest to be destroyed.

41. Dead Livestock

- a) A person must not dispose of dead livestock, or part thereof, in a manner that is likely to cause a nuisance, be offensive, or be a detriment to the environment or to the health of any person.
- b) A person must not allow any dead livestock or part thereof to remain on any road or Council land.

Part 7. Land Use and Amenity

42. Alarm systems

- a) The **owner** or **occupier** of any land must not cause or **permit** any audible or visual alarm system installed on that land or in a **vehicle** left on that land:
- i) to activate unless there is an emergency situation or an intruder is on the land; or
 - ii) to sound or omit a bright light longer than is reasonably necessary to attract attention to such land (where a total period of alarm, whether continuous or intermittent, of 10 minutes is considered as being a reasonably necessary time if the land is in a **residential zone** or 15 minutes if the land is in a **commercial zone** or **industrial zone**);

except where such alarm is being repaired or tested.

- b) Where an **authorised officer** determines that the **owner** or **occupier** has:
- i) contravened paragraph a); and
 - ii) the intruder alarm is sounding; and
 - iii) the **authorised officer** cannot, after reasonable efforts, locate the **owner** or **occupier** of the **premises**,

the **authorised officer** may enter onto the **premises** and do what is reasonably required to abate the intruder alarm noise.

43. Unsightly land

- a) An **owner** or **occupier** of any land must not allow the land to be kept in a manner which is **unsightly**.
- b) For the purposes of this clause, **unsightly** includes any land containing:
- i) unconstrained waste, or
 - ii) excessive vegetation growth that is not consistent with the appropriate ecological vegetation class of that area, or
 - iii) a source of infestation; or
 - iv) a haven for vermin; or
 - v) a haven for environmental or **noxious weeds**; or
 - vi) a disused excavation, or
 - vii) **waste** material, or

- viii) graffiti on exterior walls or fences, or
 - ix) a **building** which is incomplete and not currently being constructed, or
 - x) a **building** or other structure or thing which is detrimental to the amenity of the area, or
 - xi) no more than two unregistered, derelict or abandoned vehicles;
 - xii) any other item or combination of items that in the opinion of an **authorised officer** is detrimental to the amenity of the area.
- c) For the purposes of Clause 44.1, a **property** or **building** may be detrimental to the amenity of the area if, in the opinion of an **authorised officer**, it has substantial adverse visual impact in the context of the surrounding area:
- i) taking into account its appearance to the street, neighbouring properties or any **public place**, but
 - ii) not taking into account the intended design or siting of a **building**.
- d) An **authorised officer** of **Council** may require an **owner** or **occupier** of any land in contravention of this clause to erect temporary fencing around the boundary of land.

44. Environmental Weeds

- a) A person must not **sell** or possess for sale any **environmental weed**.
- b) An **owner** or **occupier** of land must not allow the land to support the growth of any **environmental weed**.

45. Dangerous land

- a) The **owner** or **occupier** of any land must not allow the land to be;
 - i) kept in a manner which is dangerous or likely to cause danger to health, life or **property**, or
 - ii) used for the storage of any substance which is dangerous, or
 - iii) in any other condition which in the opinion of an **authorised officer** is likely to cause danger to health, life or **property**.
- b) Paragraph a) does not apply to any danger to health, life or **property** arising:
 - i) from the condition of vegetation, unless the vegetation poses a risk to persons or **property** in a **public place**, or
 - ii) from the threat of fire.
- c) Paragraph a) does not apply to any **land** use where:
 - i) a **permit** for the use is issued under this Local Law, or

- ii) a **permit** for the use is issued under the *Planning and Environment Act 1987*.

46. Obstruction to visibility

The **owner** or **occupier** of any land within 9 metres of an intersection of two or more **roads** must not allow a tree, shrub or hedge located on the land to grow, or a structure, container, bin, **building** materials or any other object to be placed, so that there is an obstruction to the clear view:

- a) by a driver, of a pedestrian, **motor vehicle** or **traffic control item**; or
- b) by a pedestrian, of a motor vehicle or traffic control item.

Explanatory note:

9 metres is measured from the intersection **property** boundary

47. Overhanging and encroaching vegetation

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

- a) to overhang a **road** (including a road reserve, footpath or nature strip), at a height of less than four metres from the surface of the **road**, or
- b) to encroach upon any **road** (including a road reserve, footpath or nature strip), or **public place**.

48. Nuisance

- a) A person must not:
 - i) cause a noise; or
 - ii) knowingly allow or suffer a noise;

to emanate from any land owned or occupied by that person which in the opinion of an **authorised officer** is unreasonable or which would cause discomfort to other persons.

- b) A person must not:
 - i) cause or **permit** any **chimney** on the land to discharge dust, grit, ashes, **smoke**, effluvium or odour

to emanate from any **land** owned or occupied by that person to such an extent that it is dangerous to health or which in the opinion of an **authorised officer** is unreasonable or which would cause discomfort to other persons.

- c) A person must:
- i) prevent the escape of odours, dust or particles of fertiliser or compost;
 - ii) treat the fertiliser or compost in such a manner as to effectively prevent it attracting or becoming a breeding place for flies or other vectors of disease to the satisfaction of an **authorised officer**
- d) A person must not install or use floodlighting on **private land** which may result in the spill of light onto adjoining land unless in compliance with the following requirements:
- i) the floodlighting must be shielded with such devices as **Council** may from time to time require to prevent glare from the floodlighting causing a **nuisance** outside the boundary of the land on which the floodlight exists;
 - ii) the level of illumination emitted by the floodlights must not exceed 8 lux measured at a distance of 1.5m outside the boundary of the land on which floodlights are erected whether the illumination is as a result of direct, reflected or other incidental light emanating from the land; and
 - iii) the measurement of illumination for the purposes of this clause must be conducted by an **authorised officer** or in a manner approved and supervised by an **authorised officer**.
- e) An **authorised officer** may serve a **notice to comply** to the **owner** or **occupier** of the **land**, directing the **owner** to take reasonable steps to prevent emission or reflection of light where:
- i) floodlights or other exterior lights shine directly onto any other premises;
 - ii) artificial light is emitted or reflected from anything on the land so as to illuminate **premises** outside the land to more than 50 lux or so as to cause or be a **nuisance** to any person; or
 - iii) natural light is reflected from anything on the land so as to create or cause a **nuisance** to the **occupier** of any other **premises** or to a person lawfully using a thoroughfare,
- f) The notice referred to in paragraph e) may direct that:
- i) floodlights or other exterior lights are used only during the hours specified in the notice;
 - ii) the direction in which the lights shine be altered as specified in the notice; or
 - iii) any reflective surfaces be painted or otherwise treated so as to abate the **nuisance**,
 - iv) or any combination of above.

- g) Paragraph e) does not apply where a planning **permit** has been issued under the *Planning and Environment Act 1987* in respect of the floodlighting of a tennis court.

49. Containment and disposal of swimming pool wastewater

- a) Wastewater and backwash water from swimming pool filtration systems must be disposed of:
 - i) via sewer where a sewer is available; or
 - ii) must be contained within, and disposed onto or into the allotment on which the swimming pool is located.
- b) For the purposes of paragraph a)ii), an onsite retention system having a minimum capacity of 140 litres, and located a minimum of 1.8m away from any **building** and allotment boundaries satisfies the requirement for containment and disposal onsite.

50. Incinerators

- a) A person must not cause or permit any **incinerator** on the land owned or occupied by that person to be lit or to allow such to remain alight.

51. Open air burning

- a) The following restrictions apply on **allotments** less than 0.4 hectare
 - i) a person must not, without a **permit**: engage in open air burning during the **fire danger period**, on total fire ban days or at any other time the **CFA** declares fire restrictions.
- b) Conditions applied to open air burning. A person may engage in, or authorise another person to engage in, open air burning or burning material provided that all of the following conditions are met:
 - i) must have a **permit**;
 - ii) the person has given prior notification to **ESTA**;
 - iii) the burning is for the purpose of fuel reduction for fire prevention;
 - iv) the fuel is not noxious or offensive;
 - v) reasonable measures are taken by the person to advise neighbouring landowners and occupiers at least 24 hours beforehand;
 - vi) the fire must not exceed one cubic metre in size and must be lit only in an area away from other combustible material and overhanging trees, shrubs, etc;

- vii) only one fire to be alight at any one time and fully extinguished by 6.00pm or upon direction of an authorised officer;
- viii) materials not to be burnt include plastic, rubber, chemicals, petroleum-based products, painted/ treated timber, furniture, strippers, resins, batteries, glues and aerosol cans, green or wet vegetation;
- ix) materials must not be brought onto the **property** for the purposes of burning off;
- x) the wind at the site of the fire does not exceed 19 kilometres per hour;
- xi) there is an adequate number of attendees and supply of tools and adequate water supply available to hand at all times to control the fire and prevent it spreading or escaping; and
- xii) the **smoke** and/or odour from the fire does not cause offensive **smoke** to enter another **property** or create a **smoke** hazard, especially for traffic on a **road**.

c) The following restrictions apply on **allotments** 0.4 hectare or more

- i) Burning is allowed for fuel reduction purposes. A person must not, engage in open air burning during the **fire danger period**, on total fire ban days or at any other time the **CFA** declares fire restrictions.
- ii) Conditions applied to open air burning. A person may engage in, or authorise another person to engage in, open air burning or burning material provided that all of the following conditions are met:
 - A) the person has given prior notification to ESTA;
 - B) the burning is for the purpose of fuel reduction for fire prevention;
 - C) the fuel is not noxious or offensive;
 - D) reasonable measures are taken by the person to advise neighbouring landowners and occupiers at least 24 hours beforehand;
 - E) the distance from the outer extremity of the fire to any other fuel is at least three metres, including above the fire;
 - F) the wind at the site of the fire does not exceed 19 kilometres per hour;
 - G) adequate measures are taken to ensure the open air burning is confined to the property;
 - H) materials not to be burnt include plastic, rubber, chemicals, petroleum- based products, painted/ treated timber, furniture, strippers, resins, batteries, glues and aerosol cans, green or wet vegetation;

- I) materials must not be brought onto the property for the purposes of burning off;
 - J) there is an adequate number of attendees and supply of tools and adequate water supply available to hand at all times to control the fire and prevent it spreading or escaping; and
 - K) the smoke and/or odour from the fire does not cause offensive smoke to enter another **property** or create a **smoke** hazard, especially for traffic on a **road**.
- d) Exemptions
 - i) a barbeque or a manufactured fireplace designed and used for the purpose of outdoor cooking, heating or comfort is exempt except where:
 - A) a total fire ban or other **CFA** or **FRV** restrictions apply; or
 - B) offensive materials are burnt or offensive **smoke** or a **smoke** hazard is caused.
 - ii) a fire lit by a member of **Council** staff, a **CFA** member, or an employee of **FRV, DWELP**, Parks Victoria or other relevant statutory authority in the course of their functions and duties.

52. Large fires and multiple fires

- a) On an allotment of less than one hectare, large or multiple fires are prohibited.
- b) On an allotment of one hectare or more, a person may engage in, or authorise another person to engage in, open air burning, or the burning of large or multiple fires provided that:
 - i) all conditions listed in clause 51 b) are adhered to;
 - ii) any large fire or multiple fires must not pose a danger to any person or neighbouring property before, during or after burning;
 - iii) any large or multiple fires must have adequate supervision, tools and water supply to control the fire and prevent it from spreading or escaping at all times;
 - iv) reasonable measures are taken by the person to advise neighbouring landowners and occupiers at least 24 hours beforehand.
 - v) the person has given prior notification to **ESTA**.

53. Bulk waste containers

- a) A person must not leave or allow to be left any -
 - i) bulk waste container that encroaches on a **road** (including a road reserve, footpath or nature strip), or obstructs the free use of a **road** or that reduces the breadth, or confines the limits, of the a **road**, without a **permit**.
- b) A bulk waste container must have
 - i) the companies name; and
 - ii) contact phone number

legibly and permanently displayed on the body of the bin.
- c) An authorised officer may **impound** any -
 - i) bulk waste container that is left contrary to Clause 53 a), b) or contrary to the conditions of a **permit** issued under this Local Law.
- d) The Council or an authorised officer may exempt -
 - i) a person;
 - ii) a class of persons; or
 - iii) a body corporate-

from the application of Clause 53 a)

54. Parking of vehicles

- a) The **Council** from time to time may, by resolution, or by a delegate if this matter is the subject of a delegation, fix the days, hours and conditions under which a **vehicle** maybe left in or on:
 - i) any **road**;
 - ii) any **parking area** under the control of the **Council**; or
 - iii) **Council land**;
 - iv) and may erect appropriate signs.
- b) Without a **permit** a person must not park a **vehicle** on any park, garden or reserve under the control of the **Council**.

55. Parking Schemes

The **Council** from time to time may, by resolution, introduce a **permit** parking scheme which:

- a) exempts any **vehicle** of a resident or specified person or specified class of person from the restrictions of time limited parking; or
- b) prohibits parking in specified areas by persons other than **permit** holders.

56. Use of recreational vehicles

- a) A person must not use a **recreational vehicle** on **Council land** or a **municipal reserve**, without a **permit**.
- b) A person must not ride any unregistered **recreational vehicle** in a **public place**.
- c) A person who owns an unregistered **recreational vehicle** must not knowingly allow another person to ride the **recreational vehicle** in a **public place**.
- d) A person must not use a **recreational vehicle**, or allow a **recreational vehicle** to be used on **private land** within the **municipal district**:
 - i) unless a **permit** has been issued in accordance with this Local Law, or
 - ii) contrary to a **permit** issued in accordance with this Local Law.
- e) An **owner** or **occupier** of **private land** must not knowingly allow a minor to use a **recreational vehicle** on the **land** unless it is in accordance with this Clause.
An authorised officer may **impound** a **recreational vehicle** being used in contravention of this Local Law in accordance with paragraphs a), b), c), d) or e).
- f) A **permit** to use a **recreational vehicle** is required on all **private land** within the **municipal district** that is less than 2 hectares in area.
- g) Permits for the use of a **recreational vehicle** may be subject to conditions.

57. Toy vehicles

A person must not:

- a) use or leave a **toy vehicle** on a **road** (including a road reserve, footpath or nature strip), or **public place**;
 - i) in a manner which interferes with the passage of, causes a **nuisance** to or endangers any person on the **road** (including a road reserve, footpath or nature strip), or **public place**; or
 - ii) in an area where the use of **toy vehicles** is prohibited by the inscription on a sign erected by the **Council**.
- b) allow another person under his or her care and control to use or leave a **toy vehicle** on a **road** (including a road reserve, footpath or nature strip), or on **public place** contrary to paragraph a).

58. Repair and sale of vehicles on roads and council land

Without a **permit** a person must not on any **road** or **Council** land:

- a) park or cause a **vehicle** to be parked or left for the purpose of exposing or displaying that **vehicle** for sale; or
- b) dismantle any **vehicle** (except where necessary to enable it to be removed therefrom) or paint or repair any **vehicle**.

59. Identification of Premises

- a) **Council** may from time to time allot a number to an allotment and may from time to time change the numbering.
- b) The **owner** or **occupier** of an allotment to which a number has been allotted by the **Council** must mark the land with the number in a form and of sufficient size and in an unobstructed position so as to be clearly visible and legible from the adjacent **road**.
- c) The **owner** or **occupier** of an allotment must ensure that all numbers marking the an allotment are:
 - i) made of durable materials;
 - ii) kept in a good state of repair; and
 - iii) renewed as often as may be necessary.
- d) A person must not display a number on or in connection with any allotment unless the number has been allotted to the allotment by the **Council**.

60. Caravans, movable and temporary dwellings

- a) A person must not occupy:
 - i) a caravan; or
 - ii) a **movable dwelling**; or
 - iii) any other temporary structure or **dwelling**on private land for longer than 30 calendar days without a **permit** and without making available on site suitable contained toilet facilities for the use of those camping.
- b) A person may apply for a **permit** to place and occupy a **caravan** or **movable dwelling** on the **property** for the purpose of residing in while they construct a **dwelling** on a vacant **property**, or for any other reason.
- c) A **permit** to place and occupy a **caravan** or **movable dwelling** must not be granted unless, in the opinion of an **authorised officer**, adequate sanitary facilities are in place.

- d) A person who has been granted a **permit** under this Local Law must remove the **caravan** or **movable dwelling** from the land to which the **permit** relates, immediately upon:
 - i) the expiration of the **permit**, or
 - ii) otherwise as required by the conditions of **permit**.
- e) Paragraph a) does not apply to any **private land** that is **caravan park** within the meaning of the *Residential Tenancies Act 1997*.

61. Camping

- a) A person must not camp or occupy a tent, **caravan**, **moveable dwelling** or temporary structure, in any **public place** (except within a **camping area**) without a **permit**.
- b) A **permit** to camp or occupy a tent, **caravan**, **moveable dwelling** or temporary structure must not be granted unless, in the opinion of an **authorised officer**, adequate sanitary facilities are in place.
- c) Paragraph a) does not apply to any **private land** that is a **caravan park** within the meaning of the *Residential Tenancies Act 1997*.

62. Shipping containers

The **owner** or **occupier** of any land must not cause or allow a shipping container to be placed on the **land**, without:

- a) a **permit** issued in accordance with this Local Law, or
- b) a **permit** issued in accordance with the *Planning and Environment Act 1987*.

63. Protection of Amenity Trees

- a) For avoidance of doubt, this clause does not apply to such part of a tree that is above or below Land which is not private land.
- b) This clause applies to:
 - i) any substantial tree located in a residential zone or commercial zone or activity centre zone; and
 - ii) where the tree, as described above, is:
 - A) not otherwise protected by a zone or overlay or any other provision applied by the **Nillumbik Planning Scheme**;
 - B) situated on any **private land**, whether or not the tree extends beyond the boundary of that **private land**.

- c) A person must not without a **permit**:
 - i) remove, damage, kill or destroy or direct, authorise or allow to be removed, damaged, killed or destroyed a **substantial tree**.
 - ii) carry out, or direct, authorise or allow to be carried out, the construction of a **building (building work)** or carry out **works** within the **tree protection zone** of a **substantial tree**.
 - iii) remove, damage, kill or destroy or direct, authorise or allow to be removed, damaged, killed or destroyed a tree required to be planted as a condition of a **permit**.
- d) Paragraph c) does not apply to the pruning of trees in accordance with the Australian Standard for the Pruning of Amenity Trees (AS4373) and where pruning is undertaken by a qualified arborist.
- e) This clause does not apply to any species identified as an **environmental weed**.

64. Earthworks

a person must not without a permit conduct **earthworks** which involve the receipt, importation, stockpiling or placement of more than 100 cubic metres of soil.

65. Prohibition of Fireworks

A person must not discharge any fireworks on or from any land outside the **urban growth boundary**.

Explanatory note:

Clause 65 applies to

- (a) all land outside the urban growth boundary within the Nillumbik Shire; and
- (b) all land within the township of St Andrews and the township of Panton Hill within the Nillumbik Shire.

“township of Panton Hill” means all land holdings located within the township of Panton Hill as defined in the Victorian Register of Geographic Names

“township of St Andrews” means all land located within the township of Queenstown as defined in the Victorian Register of Geographic Names.

“urban growth boundary” – means the boundary defined in the Nillumbik Planning Scheme identifying the scope of urban growth within the municipality and identified on the plan in Schedule 1

Part 8. Waste Disposal

66. Commercial Waste Collection

The collection of commercial **waste** by any person must be carried out in accordance with the following provisions:

- a) Waste bins should be located at sites that provide minimal annoyance to residential premises;
- b) Compaction should be carried out while the **vehicle** is moving;
- c) Bottles should not be broken at a collection site;
- d) Routes which service predominately residential areas should be altered regularly to reduce early morning disturbances;
- e) Where a residential area is impacted by noise from the collection of waste, collection should be restricted to the times contained within the following schedule
 - i) one collection per week 6:30 am – 8 pm Monday to Saturday 9 am – 8 pm Sunday and public holidays
 - ii) two or more collections per week 7 am – 8 pm Monday to Saturday 9 am – 8 pm Sunday and public holidays

67. Domestic waste collection, and recyclable materials

- a) An **occupier** of any **dwelling** or other land in the **municipal district** must comply with any standards, **policy** or guidelines of **Council** applicable to a **landfill**, recycling or green (garden and food) **waste** service.
- b) A person must not deposit landfill waste or other matter in a **bin supplied by council** to any **dwelling** or land of which the person is not resident.
- c) A person must not deposit:
 - i) hazardous **waste** or chemicals
 - ii) hot ashes, or hot material likely to damage the bin
 - iii) a gas bottle or any container of pressurised gas
 - iv) **building** or renovation **waste**
 - v) soil, bricks or rubble
 - vi) medical **waste**, veterinary **waste** or syringes
 - vii) e-waste, including computers and electrical components
 - viii) batteries
 - ix) tyresin any **bin supplied by council**.
- d) A person must not damage or destroy any **bin supplied by council**.

- e) A person may be guilty of an **offence** against this clause 67 d), regardless of which **dwelling** or land has been allocated the bin that has been damaged or destroyed.
- f) A person must not remove or interfere with any recyclable material left out on a **road** or at any other collection point to be collected in accordance with an instruction of **Council**.
- g) A person must ensure that all domestic landfill, green (garden and food) **waste, hard waste**, recyclable and other **waste** materials which they place on a **road** (including a road reserve, footpath or nature strip) for collection is placed in accordance with any standards, **policy** or guidelines of **Council**.
- h) A person shall divert recycle materials into the recycle bin.
- i) A person must not place a **bin supplied by council** in a **public place** in a location that:
 - i) Obstructs the free use of the **road** (including road reserve, footpath or nature strip) by **motor vehicles**, or
 - ii) Obstructs the free use of a footpath by pedestrians.
- j) A person must not deposit domestic **landfill waste**, green (garden and food) **waste, hard waste**, recyclable materials and other **waste** materials except:
 - i) in a bin supplied by council, or
 - ii) in accordance with a **hard waste** collection advertised by, or on behalf of, **Council**.
- k) An **occupier** of any **dwelling** or other land in the **municipal district** must ensure that:
 - i) any **bin supplied by council** is kept in good order and in a clean, sanitary and inoffensive condition, and
 - ii) any **bin supplied by council** is used in a manner that does not cause a **nuisance** to other residents.
 - iii) any **bin supplied by council** is stored within the **property** to which it is allocated
 - iv) material placed in a bin does not exceed a volume which prevents the lid being closed; and
 - v) they remove any waste from a road or Council land which has spilled from the bin supplied to the occupier
- l) **Council** or an **authorised officer** may, by notice in writing, direct the **owner** or **occupier** of land to:
 - i) install;
 - ii) repair;
 - iii) replace; or
 - iv) modify -

a fence or other means of screening a landfill or recycling or green (garden and food) waste bins or trade **waste** skip on the land from public view if **Council** or an **authorised officer** forms the opinion that the landfill, recycling or green **waste** bins or trade **waste** skip are unsightly, dangerous, or detrimental to the general amenity of the neighbourhood in which it is located

- m) Emptied bins shall be retrieved to within the **property** boundary within 24 hours after collection.

68. Transportation of waste

A person must not convey or cause to be conveyed in any **motor vehicle** on any **road** in the **municipal district**, any **noxious weeds**, manure, dead **animal** or remains, offal, bones, hides, skins, offensive matter, refuse, rubbish or other **waste** unless the **vehicle** is constructed, fitted, loaded and covered so that:

- a) no leakage occurs or material is dropped or deposited on any **road** or adjacent area from the **vehicle**; and
- b) the possibility of escape of offensive odours is minimized, to the satisfaction of an **authorised officer**.

69. Use of municipal recycling centre

- a) A person must not use the **municipal recycling centre** unless the person:
 - i) pays any fees and charges applicable to the use of the service, and;
 - ii) complies with the terms, conditions, directions and signs determined by the **Council** for use of the **municipal recycling centre**.
- b) A person who is not a Council employee must not remove material of any kind which has been deposited at the **municipal recycling centre**.

70. Dumping of refrigerators, trunks or similar containers.

A person must not place, leave or allow to remain a disused refrigerator, ice- chest, ice-box, clothes washer or dryer, trunk, chest or any other similar article having a compartment which has a capacity of greater than 0.04 cubic metres at any **municipal place**, **public place** or unfenced vacant land in the **municipal district** without first:

- a) removing every door and lid; or
- b) removing every lock, catch and hinge attached to a door or lid; or
- c) otherwise rendering every door and lid incapable of being fastened.

71. Hard Waste Collections

- a) Where the **Council** has notified **occupiers** of a **hard waste** collection and an **occupier** of land proposes to leave material for collection, the material must be left for collection in accordance with the conditions contained in the notice to occupiers.
- b) Where the **Council** has notified occupiers of a **hard waste** collection and an **occupier** of land proposes to leave material for collection, the material must be left for collection no earlier than the Sunday before the week of booked collection.
- c) A person must not add to or take any material from, the contents of a land occupier's materials left out for a **hard waste** collection without the permission of the land **occupier**.
- d) **waste** collection operators may refuse to collect hard waste from any **occupier** who does not comply with a direction of the **Council**, an **authorised officer** or the **waste** collection operator.

72. Dumping of waste

Without a **permit** a person must not:

- a) cause or permit, litter or **waste** to be placed on any **Council** land, unless as part of a **hard waste** collection as described in Clause 71; or
- b) dump household or business **waste** in any public litter bin.

Part 9. Protection and Management of Council Assets and Infrastructure

73. Actions affecting council land

Without a **permit** a person must not:

- a) on any **municipal place**:
 - i) occupy or fence off any part of the **municipal place**;
 - ii) construct landscaping **works** or retaining walls;
 - iii) erect a hoarding or overhead protective awning;
 - iv) use a mobile crane or travel tower for any work;
 - v) make a hole or excavation or reinstate a hole or excavation;
 - vi) leave any **building** materials thereon;
 - vii) leave any **waste** or debris or other goods thereon;
 - viii) plant trees or vegetation;
 - ix) remove or damage any tree or vegetation;
- b) on any **municipal reserve**, drive on, park or use a **vehicle** to access **private land** through that **municipal reserve** for any purpose; or
- c) otherwise cause any change to **Council** land or anything thereon, or otherwise occupy, plant or put anything on **municipal place**.

74. Maintenance of drains

The **owner** or **occupier** of any land must ensure that any drain, gutter, downpipe or associated infrastructure on the land or which drains from the land and connects to a drain owned or managed by the **Council** is maintained:

- a) in a condition that is not dangerous to health, unsightly or a **nuisance**, and
- b) in a working condition.

75. Stormwater drainage connections

- a) An **owner** of land must ensure that all stormwater drainage outlets that discharge from that land to a **Council** drain are properly constructed and maintained at all times.
- b) The **owner** or **occupier** of land must ensure that:
 - i) 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; and
 - ii) the land is adequately drained to the satisfaction of an **authorised officer**

76. Protection of drains

A person must not, -

- a) destroy, or
- b) damage, or
- c) interfere with; or
- d) tap into; or
- e) cover or obscure-

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

77. Protection of roads

a) A person must not

- i) occupy or fence off;
- ii) erect a hoarding or scaffolding on;
- iii) use a mobile crane or travel tower for any work on;
- iv) make a hole or excavation in;
- v) fill a hole or excavation in; or
- vi) remove, damage or interfere with a temporary traffic signal, sign, barrier or other structure erected to protect pedestrians or regulate traffic on-

any **road** or part of a **road** under the control of the **Council**, without a **permit**.

- b) Any person that undertakes work on a **road** or part of a **road** under the control of the **Council**, must perform the work to the satisfaction of the **Council**.
- c) An **authorised officer** may **impound** any object or equipment being used in contravention of paragraph a) or in contravention of a **permit** issued under this Local Law.
- d) The **Council** may exempt -
 - i) a person, or
 - ii) a body corporate-from the application of this Clause.
- e) A person who makes a hole or excavation in a **road** or part of a **road** under the control of the **Council** must ensure that appropriate signs are displayed in accordance with the applicable Australian Standard.

78. Protection of assets and land

a) A person must not:

- i) damage, interfere with, destroy or deface
- ii) undertake an activity which may damage, interfere with or destroy
- iii) build or fill over, conceal or plant vegetation that may cause damage near

a bridge, fence, footpath, nature strip, **road**, **municipal reserve**, service conduit, fire plug, hydrant or other asset vested in or under the control of the **Council**, without a **permit**.

b) The **Council** may inspect:

- i) any connection to a **Council** asset, or
- ii) any **works** undertaken within a **road** or easement

and impose a fee for the connection or inspection.

79. Protection of Vegetation

a) Without a **permit** a person must not on any **Council** land remove any tree or vegetation, including dead trees and fallen timber, other than to prevent the spread of declared **noxious weeds** pursuant to the provisions of the *Catchment and Land Protection Act 1994* and those weeds listed in the **Council** publication 'Live Local Plant Local'.

b) Paragraph a) does not apply to the removal of material or vegetation from a **road** reserve if it is:

- i) For the maintenance and mowing of nature strips comprising exotic vegetation that is vegetation which is not native to Australia, within urban areas, where there is kerb and channel drainage construction; or
- ii) Removal of vegetation that has fallen onto the **road** from abutting **private land**; or
- iii) Removal of fine fuels (which include dry grass, leaves, twigs and loose bark, but not larger logs or branches) by abutting landowners for **fire hazard** reduction purposes; or
- iv) Removal of dead vegetation (including dead indigenous vegetation) up to 1.5 m in height provided that the section of the **road** is not classified as High Conservation Significance; or
- v) Removal of vegetation for **fire hazard** reduction purposes when in accordance with a fire prevention notice issued by the Municipal Fire

- Prevention Officer or an Assistant Fire Prevention Officer under - section 41 of the *Country Fire Authority Act 1958*, or
- vi) Activities undertaken by 'Friends Of', Landcare Groups and community fireguard groups in accordance with a land management agreement approved by **Council**.

Explanatory Note:

For the purposes of sub-clause 79 b) iii) and iv), High Conservation Significance is identified on Council's High/Low Roadside Conservation Significance map which is available on Council's website or can be viewed at the Council Offices.

80. Vehicle crossings

- a) The **owner** or **occupier** of any land must ensure that:
- i) each point of **vehicle** access to that land from a **road** has a **vehicle crossing** constructed to the satisfaction of Council linking that **road** to the **property**, and
 - ii) no **vehicle** is allowed to enter or leave the land except by using the **vehicle crossing** referred to in clause 80 a), or in accordance with an **asset protection permit** issued under clause 82, and
 - iii) a redundant crossing is removed where directed in writing by the **Council**.
- b) A person must not permanently or temporarily construct, remove or alter a **vehicle crossing**:
- i) without a **permit** issued in accordance with the *Planning and Environment Act 1987*, or
 - ii) without an **asset protection permit** issued in accordance with Clause 82, or
 - iii) in accordance with a **permit** or written consent provided by the **Council**.
- c) A person who fails to comply with paragraph a) is guilty of an **offence**, and must repair any damage caused to the asset or if the **Council** elects, pay to the **Council** the actual or reasonable estimated cost of repairing the damage.
- d) Any work in respect of an asset must be performed to the satisfaction of the **Council**.

81. Spoil on roads

- a) An **owner** or **occupier** must not allow any soil, earth, mud, clay, rock, liquid **waste** or like substance to fall or escape onto a **road** from their **property** and cause a hazard or obstruct a **road**.

- b) An **owner** or **occupier** who fails to comply with paragraph a) must immediately remove the hazard or obstruction, to the satisfaction of the **Council**, so that it is no longer likely to cause a hazard, or is no longer an obstruction.
- c) A person must not allow any soil, earth, mud, clay, liquid **waste** or like substance to fall or escape onto a **road** from any **vehicle** which they are driving.
- d) A person must not allow any grease, oil, mud, clay or like substance to run off a **motor vehicle** onto a **road**, or into a drain.
- e) A person must remove any soil, earth, mud, clay, or excrement deposited on a **road** by any animal under his or her effective control.

82. Asset protection permits

- a) On the payment of an application fee, the **Council** may issue an **asset protection permit** in respect of any land where **building work** is to be carried out;
- b) A **property owner** must not commence any **building work** without having an **asset protection permit** issued in respect of the **building work**;
- c) A person must comply with any condition on an **asset protection permit**;
- d) An **asset protection permit** may allow a person to enter land from a **road** other than by a permanently constructed **vehicle crossing** whether or not public assets or infrastructure are likely to be damaged;
- e) The **asset protection permit** may be subject to such conditions as **Council** determines, including (but not limited to):
 - i) requiring protection **works** to be done, or
 - ii) requiring the payment of an **asset protection bond**, or
 - iii) requiring the erection of temporary fencing to the satisfaction of **Council**, or
 - iv) requiring that any public asset or infrastructure damage be repaired, replaced or reinstated within a specified time-
- f) Unless it is renewed sooner, an **asset protection permit** expires on the date specified in the **permit** and if not specified, 12 months after the date of its issue;
- g) The owner, builder or appointed agent must:
 - i) notify **Council** in writing, of proposed **building work** at least 7 days before **building work** commences; and
 - ii) provide **Council** with notice in writing of any prior damage to any **road** (including a road reserve, footpath or nature strip), or other asset at least 7 days prior to the commencement of any **building work** or the delivery of any equipment or **building** materials.

Explanatory note:

The **owner, builder or appointed agent** must notify the **Council** in accordance with Clause 82 g), regardless of whether a **building permit** has been issued.

- h) The **owner, builder or appointed agent** responsible for **building work** must repair or reinstate any damaged **road**, drain, nature strip, kerb, channel, **vehicle crossing** or other assets vested in **Council** adjacent to the land where the **building work** takes place or which is otherwise affected by the **building work**, and any repair work must be performed to the satisfaction of the **Council**;
- i) The amount of any **asset protection bond** required under this clause may be determined by resolution of the **Council**, and may take into account:
 - i) The type, size and nature of the **building work** being undertaken; and
 - ii) The total **building** cost of the work being undertaken; and
 - iii) the likely impact of the proposed **building** on assets and infrastructure in the vicinity; and
 - iv) any other factor-
- j) Upon completion of the **building work**, **Council** may:
 - i) retain all or part of the **asset protection bond** to offset the costs of repairing any damage; or
 - ii) refund to the person who lodged the **asset protection bond**, upon Council's satisfaction that no damage has been caused, or that any damage caused has been repaired to Council's satisfaction-
- k) For purposes of determining whether any damage to public assets has resulted from the execution of any **building work** on a **property**, failure to provide notice under this clause is *prima facie* proof that there was no existing damage to such assets prior to the **building work** taking place;
- l) The **Council** may accept an alternative form of security to an **asset protection bond**;
- m) Where an **owner, builder** or approved agent has caused damage to assets vested in **Council**, and the cost to repair the damage exceeds the amount of the **Asset Protection Bond** paid in respect of the **building work** associated with the damage, any person that is guilty of an **offence** arising from the damage may be ordered (in addition to any other penalty) to compensate the **Council** for an amount not exceeding the value of:
 - i) the damaged asset; or
 - ii) the cost of repairing or reinstating the asset to its prior state-

- n) An **asset protection permit** may be cancelled if an **owner, builder** or **appointed agent** is found guilty of an **offence** arising from a failure to comply with this Local Law.

83. Identifying damage to Council assets

- a) Inspections of any **Council** assets by an **authorised officer**, whether on **private land** or **public land**, may be conducted at any reasonable time;
- b) If **Council** identifies any damage that appears to result from non-compliance with this Local Law, an **authorised officer** may give a **notice to comply** to any person to reinstate the asset or repair any damage within a specified time;
- c) An **authorised officer** may serve the responsible party with a **notice to comply** under Clause 83 b) specifying:
 - i) The time and date that the damage was observed, and
 - ii) a description of the damage to be repaired, and
 - iii) the date that the repair must be completed by (which must not be less than 28 days from the date of the notice).

Part 10. Requirements of Building Sites

84. Stormwater protection

Where any **building work** is being carried out on any land, the **owner, builder** or **appointed agent** must ensure that the site is developed and managed to minimise the risks of stormwater pollution, through the contamination of run-off by chemicals, sediments, **animal** wastes or gross pollutants, including (but not limited to) measures to:

- a) minimise the amount of mud, dirt, sand, soil or stones deposited on the abutting **roads** (including a road reserve, footpath or nature strip), or washed into the **stormwater system**, and
- b) prevent **building** clean-up, wash-down or other wastes being discharged offsite or allowed to enter the **stormwater system**.

85. Containment of refuse

- a) Prior to the commencement of any **building work** and continuing until the **completion of the building work**, the **owner, builder** or **appointed agent**:
 - i) must provide a closed **facility** for the purpose of disposal of **builders' refuse** that may be wind-blown, and
 - ii) must place the **facility** on the **land** and keep it in place (except for such periods as are necessary to empty the **facility**), and
 - iii) must not place the **facility** on any **Council land** or **road** (including a road reserve, footpath or nature strip), without a **permit**, and
 - iv) must empty the **facility** whenever full and, if necessary, provide a replacement **facility** during the emptying process, and
 - v) must prevent mud and dirt being carried out by vehicles from the **building site** onto adjoining **roads** (including a road reserve, footpath or nature strip), and
 - vi) must ensure that any abutting nature strip remains tidy, and
 - vii) must ensure that no materials, vehicles or items are placed on nature strips or other **Council land**, without a **permit**; and
 - viii) must ensure that any footpath adjacent to the land affected by the **building work**, is kept clear of mud and dirt at all times.
- b) For the purpose of this Part, **facility** means a suitable receptacle for **builders' refuse**, capable of restricting debris and **waste** from leaving the **building site**.
- c) The **Council** may exempt:
 - i) a person; or

- ii) a body corporate

from the application of this clause.

86. Disposal of builders' refuse

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

- a) ensure that all **builders' refuse** which is capable of being carried by wind is placed in the **facility** referred to in clause 86, and
- b) ensure that **builders' refuse** that is not placed in the **facility** referred to in clause 86 a) is not deposited on any land other than the **building site** directly under their control, and
- c) ensure that **builders' refuse** is not deposited in or over any part of the **stormwater system**.

87. Removal of builders' refuse

An **owner, builder or appointed agent** must remove all **builders' refuse** from a site where **building work** is undertaken, within 21 days of the **completion of building work**.

88. Building site fencing

- a) This clause only applies to **building work** on land that is in a residential zone, commercial zone, activity centre zone or industrial zone, and is less than 1500m² in size.
- b) An **owner, builder or appointed agent** engaged in **building work** must ensure that the site has **adequate site fencing** that complies with clause 88.
- c) **Adequate site fencing** means a fence or gate of a temporary or permanent nature, that:
 - i) extends to a height of not less than 1500mm, and
 - ii) is capable of preventing litter and **builders' refuse** from being blown from a **building site** by wind, and
 - iii) has only one **vehicle** access opening that:
 - A) has a width of no greater than 2800mm, and
 - B) is fitted with a gate with a height of not less than 1500mm which prevents litter from being blown from a **building site** by wind, and
 - C) is located to correspond with a **vehicle crossing** referable to the **building site**, and
 - iv) does not obstruct or encroach upon any **road** (including a road reserve, footpath or nature strip), and

- v) is sufficiently secure to withstand strong winds, and
- vi) otherwise does not pose a risk to persons, **property**, vehicles or assets in the vicinity.

89. Sanitary facilities on building sites

- a) Prior to the commencement of any **building work**, and continuing to the **completion of building work**, the **owner, builder or appointed agent** must provide a sewerer toilet or a fresh water flushing portable toilet and ensure that it is serviced and available for the use of the persons on that site, to the satisfaction of an **authorised officer**.
- b) Notwithstanding paragraph a) an **owner, builder or appointed agent** may provide a sewerer toilet or a fresh water flushing portable toilet on an adjacent site under the control of the **owner, builder or appointed agent**, provided that:
 - i) no more than 3 adjacent building sites rely on the same sewerer toilet or fresh water flushing toilet, and
 - ii) access to the sewerer toilet or fresh water flushing toilet is available for any person working on any of the three adjoining sites.
- c) The **owner, builder or appointed agent** must advise **Council** within 7 days of the installation of a sewerer toilet and obtain **Council** written consent prior to removing a portable toilet from the site.

90. Identification of building sites

- a) Prior to the commencement of any **building work** and continuing to the **completion of building work**, the **owner, builder or appointed agent** must erect and maintain a sign at the main entrance of the **building site** which:-
 - i) is at least 600 millimetres in height and 400 millimetres in width, and
 - ii) is placed in such a location as to be clearly visible and legible from the **road**, and
 - iii) contains the lot number of the site as described in the relevant certificate of title, and
 - iv) identifies the name, postal address and a business hours contact telephone number or numbers of the person in charge of the **building work**, and
 - v) identifies the **asset protection permit** number applicable to the **building work**.
- b) If, prior to the completion of the **building work**, there is a change of **builder**, the **owner** must, within seven days of that change,
 - i) give written notice to the **Council**, and

- ii) cause any sign erected in accordance with paragraph a) to be replaced or amended so that the identification of the name, postal address and contact number or numbers of the person in charge of the **building work** is correct and up-to-date
- c) The notice under paragraph b) must specify the date of the change of **builder** and be signed by the **owner**, and the new **builder**.
- d) From the date of receipt of the notice under paragraph b), the new **builder** specified in the notice is deemed to be the **builder** for the purposes of this Local Law.
- e) Despite any rule of evidence, the inclusion of a person's name on a sign erected in accordance with paragraph a), is *prima facie* proof that the person named is responsible for **building works** on the site within the meaning of this Local Law, unless the contrary is proven.

91. Equipment and materials delivery

- a) A person must not deliver to a **building site** any equipment or materials unless an **asset protection permit** has been obtained.
- b) A person must deliver to a **building site** any equipment or materials for the **building works** direct from the **road**, over the **vehicle crossing** to the **allotment** and not across the nature strip or footpath.
- c) In respect of any building work:
 - i) **owner** of any land;
 - ii) **builder** engaged to carry out **building work** on land;
 - iii) appointed agent; or
 - iv) demolition contractor engaged to carry out the demolition of a structure on the land, in the case of **building work** involving demolition,

must ensure that;

- v) no materials are stored outside the **building site** on any **Council** land without approval from an **authorised officer**; and
 - vi) entry takes place only across a **vehicle crossing** or **vehicle crossing** including a temporary vehicle crossing.
- d) Unless written approval is obtained from the adjoining owners and submitted to **Council**, a person must not deliver or store **building** materials on the adjoining **allotments** to the **building site**.

Where there is evidence of a **vehicle** accessing a **building site** from any point other than over the **vehicle crossing**, the **owner** is liable for any damage to **Council** assets unless such damage was recorded prior to **works** commencing, in accordance with Clause 82 (g)(ii).

Part 11. Council may issue permits

92. Council may issue permits

- a) The **Council** may issue a **permit** under this Local Law, with or without any conditions, may renew or extend a **permit**, or may refuse to issue a **permit**.
- b) The **Council** may from time to time prescribe:
 - i) the manner and form in which applications for **permits** under this Local Law should be made;
 - ii) any **policy** that may apply to **permits** being issued, or the refusal to issue a **permit**
 - iii) the manner in which any **permit** under this Local Law should be issued; and
 - iv) the fee payable to apply for a **permit** or to renew or extend a **permit**, and
 - v) any other matter related to issuing **permits** under this Local Law.
- c) The **Council** may authorize staff members to issue **permits** under paragraph a).
- d) The **Council** must keep a record of **permits**.
- e) The **Council** may request further information prior to issuing, or refusing to issue, a **permit**.
- f) The **Council** may require that notice of an application for a **permit** is publicized or otherwise brought to the attention of any affected person, at the expense of the applicant.
- g) Unless it is extended sooner, a **permit** expires on the date specified in the **permit** or if no date is specified the **permit** will expire one year after the date of issue.
- h) The **Council** may waive, reduce or alter any fee or charge with or without conditions, in respect of a class of **permit**, a class of applicant or any other circumstances.
- i) A **permit** may be issued subject to conditions, including (but not limited to):
 - i) the payment of a fee; or
 - ii) charge, or lodgement or a guarantee or bond; or
 - iii) a standard to be applied; or
 - iv) a time limit to be applied or specifying the duration, commencement or completion date; or
 - v) the happening of an **event**; or
 - vi) the rectification, remedying or restoration of a situation or circumstance; or
 - vii) the consent of the **owner** of land, or any other person affected by the issuing of the **permit**; or

- viii) the currency of public liability insurance in respect of any activity or conduct related to the issue of a **permit**; or
- ix) the requirement to comply with any **policy, code** of practice or guidelines that **Council** has in force from time to time, and
- x) the granting of some other **permit** or authorization which may be required by **Council** whether under this Local Law or otherwise.

93. Considering applications for permits

- a) In considering an application for a **permit** the **Council** or authorised staff member may consider:
 - i) any **policy** or guideline adopted by the **Council** relating to the subject matter of the application for the **permit**;
 - ii) any submission that may be received in respect of the application;
 - iii) any comments that may be made in respect of the application by any public authority, Government department, community organisation or any other body or person; and
 - iv) the risk posed to public safety, **property** or **Council** assets by the proposed activity; and
 - v) any anticipated impact on other persons of the proposed activity; and
 - vi) whether the concerns or issues raised regarding the proposed activities can be adequately controlled by **permit** conditions, and
 - vii) the objectives of this Local Law, and
 - viii) any other relevant matter.

94. Correction of permit

- a) The **Council** may correct a **permit** if the **permit** contains:
 - i) a clerical mistake or an error arising from any accident, slip or omission; or
 - ii) an evident and material miscalculation of figures or any evident and material mistake in the description of any person, thing or **property** referred to in the **permit**.
- b) The **Council** must note the correction in the record of **permits**.

95. Grounds for cancellation of or amendment of permits

- a) The **Council** may cancel or amend any **permit** if the **Council** considers that there has been:

- i) a material misstatement or concealment of facts in relation to the application for a **permit**; or
 - ii) any material mistake in relation to the issue of the **permit**; or
 - iii) any material change of circumstances which has occurred since the issue of the **permit**; or
 - iv) a failure to comply with the conditions under which the **permit** was issued; or
 - v) any breach of this Local Law, including a failure to comply with a **notice to comply** issued under this Local Law.
- b) Prior to cancelling or amending a **permit** under Clause 94 a), the **Council** must notify the holder of a **permit** of:
 - i) the Council's intention to amend or cancel the **permit**, and
 - ii) the basis of the intended decision, and
 - iii) the **permit** holder's right to make a written submissions within a specified period before the **permit** is amended or cancelled.
- c) The **Council** or authorised staff member must consider any written submission made by the **permit** holder prior to making a decision to cancel or amend the **permit**.
- d) The **Council** must record the cancellation or amendment of the **permit** in the record of **permits**, and must notify the **permit** holder in writing of the decision to cancel or amend the **permit**.

Part 12. Enforcing this Local Law

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

- a) A person is guilty of an **offence** if the person:
 - i) does something which a provision of this Local Law prohibits to be done; or
 - ii) fails to do something which a provision of this Local Law requires to be done; or
 - iii) engages in activity without a current **permit** where a provision of this Local Law prohibits a person from engaging in that activity without a **permit**; or
 - iv) breaches or fails to comply with a condition of a **permit** issued under this Local Law; or
 - v) fails to comply with a **notice to comply** issued under this Local Law, including a failure to comply within the time specified in the **notice to comply**, or
 - vi) fails to comply with any **written direction** issued under this Local Law.
- b) The maximum penalty that may be imposed for any **offence** against this Local Law is:
 - i) the amount specified in schedule 1, and
 - ii) in any other case, 20 penalty units.
- c) Upon finding a person guilty of an **offence** against this Local Law, any Court may order a person (in addition to imposing a penalty):
 - i) to undertake any **works**, or to do any thing to rectify or remediate a contravention of any provision of this Local Law;
 - ii) to pay compensation to the **Council** for damage caused to assets vested in **Council** in breach of this Local Law;

97. Service of documents

- a) A **notice to comply** to be served on, or given to, a person under this Local Law must be served on the person by—
 - i) delivering the notice to comply to the person; or
 - ii) leaving the notice to comply at the person's usual or last known place of residence or business with a person apparently not less than 16 years of age and apparently residing or employed at that place; or
 - iii) by sending it by post to the person at the person's usual or last known residential or business address.

- b) If a notice to comply is to be served on or given to the owner or occupier of any land and their name is not known, the notice to comply may be addressed to "the owner" or "the occupier".
- c) The notice to comply may be put up on a conspicuous position on the land if the name and address of the owner are not known and there is no occupier of the land.
- d) If a notice to comply required to be served on or given to an owner or occupier of any land by a Council is properly served on or given to the owner or occupier of the land, the notice to comply is binding on every subsequent owner or occupier of the land.
- e) Paragraph a) does not apply to any document required to be served in accordance with the:
 - i) *Criminal Procedure Act 2009*
 - ii) *Infringements Act 2006*
 - iii) *Road Safety Act 1986*
 - iv) *Local Government Act 1989*

98. Impounding and disposing of items

- a) An authorised officer may:
 - i) **impound** any item that encroaches or obstructs the use of a **municipal place** or a **road**, or any item which contravenes or is being used in contravention of this Local Law;
 - ii) release the item to its **owner** on payment of a fee determined by **Council**, which does not exceed the reasonable costs to **Council** of **impounding**, keeping and releasing the item.
- b) If an **authorised officer** impounds an item under this Local Law the **authorised officer** must serve on the **owner** a notice of seizure that complies with paragraph (f) as soon as possible after the item is impounded.
- c) If the identity or whereabouts of the **owner** of an item impounded under this Local Law are unknown, the **authorised officer** must take reasonable steps to ascertain the owner's identity and or whereabouts prior to exercising its powers under clause 98 a).
- d) If an impounded item is not retrieved within the time specified in a **notice of seizure**, an **authorised officer** may take action to dispose of the impounded item according to the following principles:
 - i) where the item has no saleable value, it may be disposed of in the most economical way; and

- ii) where the item has some saleable value the item may be disposed of either by tender, public auction or private sale but failing sale may be treated as in sub-clause 98 (d) (i);
 - iii) where the **owner** has advised the **Council** in writing that the **Council** may dispose of the goods because they do not intend to retrieve them, the **Council** may dispose of them by the method identified in sub- clauses 98 (d) (i) or 98 (d) (ii).
- e) **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.
- f) A **notice of seizure** served under this Clause must contain the following particulars:
 - i) The name and address of the **owner** of the *impounded* item, to the best of the **authorised officer's** knowledge at the time of seizure, and
 - ii) The name and contact details of the **authorised officer** that impounded the item,
 - iii) A brief description of the item (or items) impounded, and
 - iv) The time and location that the item was impounded, and
 - v) A brief description of the reason for impounding (including the Clause of the Local Law that was breached) and
 - vi) The method of retrieving the **impounded** item, including any fees payable prior to recovery,
 - vii) Date and time by which the item must be retrieved (which must not be less than 14 days from the date of the notice), and
 - viii) instructions advising how the person may view the content of the Local Law; and
 - ix) A statement to the effect of the consequences for failure to recover the item prior to the specified date.

99. Notices to comply

- a) The **Council** or an **authorised officer** may, by serving a **notice to comply**, direct any **owner, occupier** or other person apparently in breach of any provision of this Local Law to perform any action, cease doing any action, or otherwise remedy the breach of the Local Law.
- b) A **notice to comply** must state the time and date by which the thing must be remedied and must contain the particulars listed in paragraph d).
- c) The time required by a **notice to comply** must be reasonable in the circumstances and what will be reasonable will vary depending on the matters to be remedied, but should take into account, if applicable:

- i) the amount of work involved;
 - ii) the degree of difficulty;
 - iii) the availability of necessary materials or other necessary items;
 - iv) climatic conditions;
 - v) the degree of risk or potential risk; and
 - vi) any other relevant matter.
- d) A **notice to comply**, issued under this Local Law, must contain the following particulars:
 - i) The name of the person to whom the **notice to comply** is directed; and
 - ii) The last known address of the person that the **notice to comply** is directed to; and
 - iii) The address or particulars of the **property** that the **notice to comply** relates to; and
 - iv) The clause or clauses of the Local Law that are alleged to have been breached; and
 - v) The date that the alleged breaches were observed; and
 - vi) Clear instructions specifying what steps must be taken by the person to comply with the **notice to comply**; and
 - vii) The date and time by which the person must comply; and
 - viii) The name and contact details of the **authorised officer** who issued the **notice to comply**; and
 - ix) instructions advising how the person may view the content of the Local Law; and
 - x) A statement of further enforcement action that may be taken if there is a failure to comply with the notice, including a statement regarding potential maximum penalties that may apply, and
 - xi) a statement to the effect that 'If you do not understand this **notice to comply**, or if you disagree with this notice, you should obtain legal advice immediately'.
- e) If a person is served with a **notice to comply** fails to carry out any work stipulated in a **notice to comply**, **Council** may approve the carrying out of the work by another person, or carry out the work itself and recover the cost of performing the work from the person who failed to comply with the **notice to comply**.

100. Discretionary powers

- a) On becoming aware of a contravention of this Local Law an **authorised officer** may, on considering all of the circumstances known at the time, do any of the following:

- i) take no action,
 - ii) issue an **official warning**,
 - iii) issue a **notice to comply** in accordance with Clause 99,
 - iv) issue an **infringement**,
 - v) commence court proceedings,
 - vi) take any other action permitted by law.
- b) An **authorised officer** who takes any action described in paragraph (a) may take any other action in respect of the same breach unless expressly prohibited by operation of law.

101. Power to act in urgent circumstances

- a) Any **authorised officer** may in urgent circumstances arising as a result of a failure to comply with this Local Law, take action to remove, remedy or rectify a situation without serving a **notice to comply** provided:
 - i) the **authorised officer** considered the circumstances or situation to be sufficiently urgent and that the time involved or difficulties associated with the serving of a **notice to comply**, may place a person, **animal, property**, asset or thing at risk or in danger; and
 - ii) details of the circumstances and remedying action are forwarded as soon as practicable to the person on whose behalf the action was taken.
- b) The action taken by an **authorised officer** under clause 101 a) must not extend beyond what is necessary to cause the immediate abatement of (or to minimise) the risk or danger involved.

102. Infringement notices

- a) Any **offence** against this Local Law is an **infringeable offence** as defined by the *Infringements Act 2006*,
- b) An **authorised officer** may issue an **infringement** for any **offence** under this Local Law.
- c) The penalty fixed for an **infringement** notices issued under this Local Law in relation to clauses referred to in *Column 1 of Schedule 2*, is the amount specified in *Column 2 of Schedule 2*, and in every other case is 2 penalty units.
- d) The provisions of the *Infringements Act 2006* apply to an **infringement** issued for an **offence** against this Local Law.

Explanatory note:

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

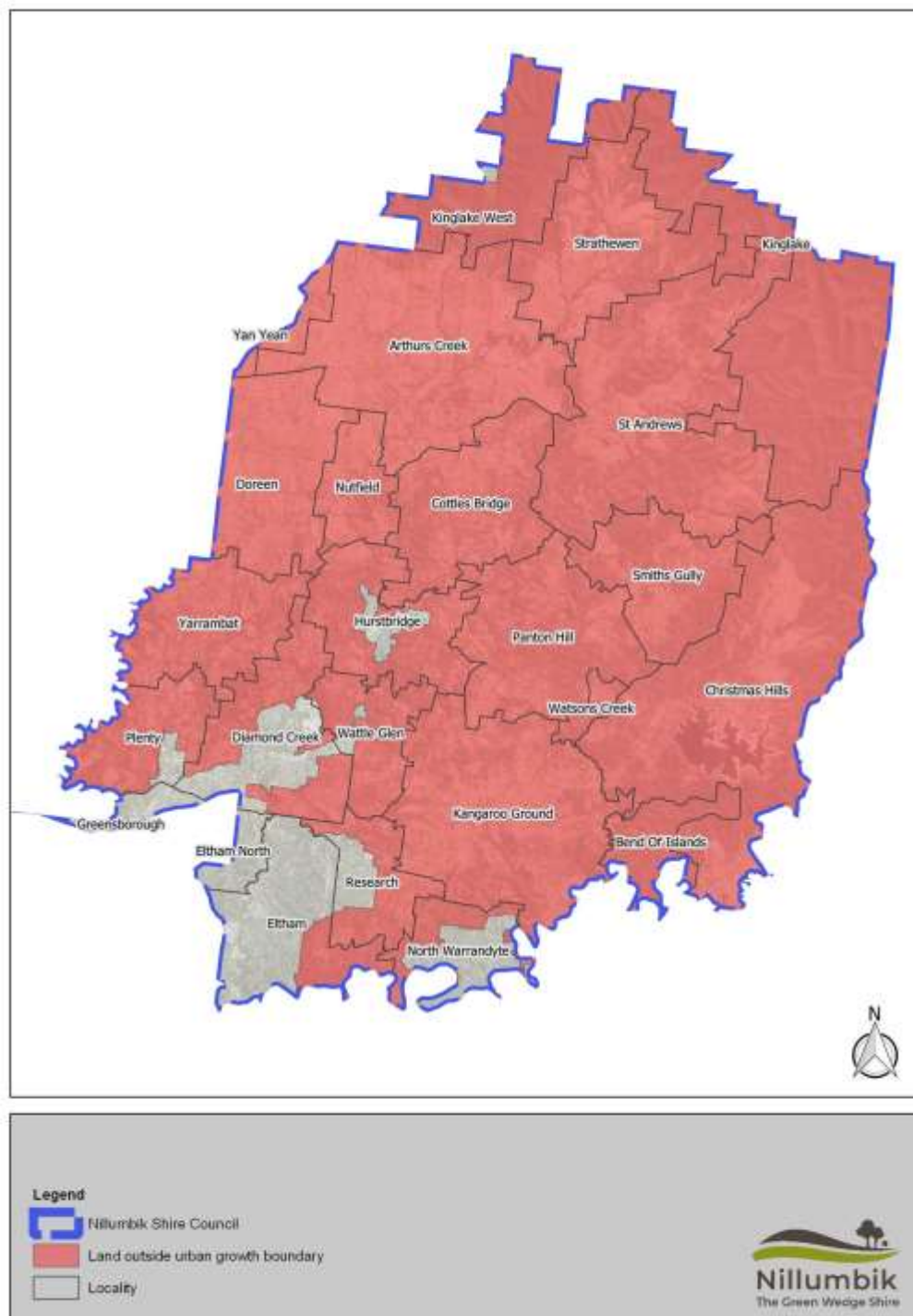
- a) the internal review of the decision to issue ***infringements***, and
- b) payment and applications of payment plans, and
- c) the enforcement of unpaid ***infringements***.

103. Penalties

A person guilty of an ***offence*** under this Local Law is subject to the penalties set out in Schedule 2.

Part 13. Schedules

Schedule 1 – Urban growth boundary map for Clause 65 – Prohibition of Fireworks



Schedule 2 – Penalties