

# Nillumbik General Local Law 1



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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 governance 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 and on **Council Land**; and
- f) prohibit, regulate, and control the use of **Council Land**; and protect public assets vested in **Council** from damage, accelerated deterioration or abuse during the building process or at other times; and 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
- g) 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
- h) provide for the consistent administration 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 (Act)* and section 42 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

- 1) This Local Law applies and operates throughout the whole of the **Municipal district**.
- 2) This Local Law does not apply where any act or thing 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 a contractor directly engaged by the **Council** to undertake any work or to provide a service on behalf of the **Council**
- e) 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

The matters contained in the following documents as formulated or published from time to time are incorporated into this Local Law in accordance with section 76 of the Act:

- a) Nillumbik Live Local Plan Local – Nillumbik Shire Council, August 2014;
- b) Procedure and Protocol Manual – Nillumbik Shire Council.

## 10. Definitions

Unless the contrary intention appears in this Local Law, the following words are defined as follows:

**‘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, person, or a competition.

**‘Asset Protection Permit’** means a **permit** issued by **Council** for the protection of public assets and infrastructure during **building work**.

**‘Authorised Officer’** means any person appointed by the **Council** to be an Authorised Officer under section 224 of *Local Government Act 1989* 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**.

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

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

**‘Council building’** means a building:

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

**‘Council Land’** means any land which **Council** owns, occupies, manages, has leased or licenced to another person or is otherwise under Council’s control and management but does not include a **road**.

**‘Council recycling centre’** means the **Council** recycling centre.

**‘Council reserve’** means **Council Land** within the **Municipal district** that is:

- a) a sports ground; or
- b) a park; or
- c) a nature reservation; or
- d) a facility provided or used in association with activities at a sporting ground, park or nature reservation; or
- e) a place specified in the Procedure and Protocol Manual; or a reserve, as declared by resolution of the Council; or
- f) purchased by, leased or otherwise provided to or managed or controlled by Council for a recreation, cultural or entertainment purpose.

**‘domestic pets’** means an animal which is normally kept inside a dwelling and includes dogs, cats, parrots and similar sized animals but does not include livestock.

**‘environmental weed’** means any weed that is specified in the Procedure and Protocol Manual.

**‘fire danger period’** means the period declared pursuant to the *Country Fire Authority Act 1958* to be a fire danger period.

**‘hard waste collection’** means the collection of hard waste by Council or its contractor from residential **private land**.

**‘large heap’** means any windrow or accumulation of felled, fallen or cleared trees, shrubs or vegetation which occupies an area exceeding ten (10) square metres or is over 25 cubic metres in volume.

**‘Litter Device’** means a device or apparatus designed for the purpose of removing animal excrement and includes a plastic bag.

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

**‘livestock’** includes a cow, dingo, sheep, 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.

**‘Local Law’** means the Nillumbik General Local Law 1.

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

**‘municipal district’** has the same meaning as in **Act**.

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

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

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

**‘owner’** means:

- a) in relation to land, the registered **owner** of the land;
- 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).

**‘permit’** means a permit granted under this Local Law and includes an **Asset Protection Permit**.

**‘Planning Scheme’** means the Nillumbik planning scheme.

**‘private land’** means any land which is not owned or occupied or under the control or management of a public body.

**‘Public Place’** has the same meaning as in the *Summary Offences Act 1966*.

**‘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.

**‘rural zone’** is the land within the rural zones in the **Planning Scheme**.

**‘road’** has the same meaning as in the *Local Government Act 1989*.

**‘sell’** includes –

- a) sell by means of any machine, electronic device or mechanical device; and
- b) barter or exchange; and
- c) offer or expose for sale; and
- d) keep or have in possession for sale; and
- e) agreeing to, directing, causing or attempting to do any of such acts or things.

**‘substantial tree’** means a tree or palm:

- a) that has a trunk circumference of 50 cm or greater measured at one metre above ground level; or
- b) that has a total circumference of all its trunks of 50 cm or greater measured at one metre above ground level; or
- c) that has a trunk circumference of 50 cm or greater measured at its base; or
- d) that has a trunk circumference of all its trunks of 50 cm or greater measured at its base.

**‘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.



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

**‘waste’** includes —

- 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; and
- b) a greenhouse gas substance emitted or discharged into the environment ;and
- c) matter that is discarded, rejected, abandoned, unwanted or surplus, irrespective of any potential use or value.

## **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**

- 1) The Chief Executive Officer must keep the Common Seal securely at the Council's offices.
- 2) 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**

A person must not use the Common Seal or any device resembling the Common Seal without the authority of Council.

## Part 3. Council Land, Buildings and Reserves

### 16. Behaviour in or on Council Land

- 1) A person must not in, on or within **Council Land**:
  - a) cause or commit any nuisance;
  - b) interfere with the use or enjoyment of that **Council Land** or the personal comfort of another person in or on that **Council Land**;
  - c) endanger any other person in or on that **Council Land**; commit an indecent, offensive, insulting or riotous act;
  - d) use indecent, offensive, insulting or abusive language to any other person in or on **Council Land**;
  - e) obstruct, hinder or interfere with any member of Council staff in the performance of their duties;
  - f) act in a manner contrary to any sign;
  - g) use or interfere with any lifesaving or emergency device in or on **Council Land** other than in an emergency or during instruction or maintenance; camp; or
  - h) occupy a tent, caravan, motor home, or other temporary structure;
  - i) use, or allow any other person to use, any unregistered **recreational vehicle**.
- 2) A person must not, without a **permit**:
  - a) destroy, damage interfere or deface **Council Land** or anything on or in **Council Land**;
  - b) sell any goods or services on or in **Council Land**;
  - c) place, erect or operate or cause to be placed erected or operated any amusement in or on **Council Land**; or
  - d) use a **recreational vehicle** in or on **Council Land**.

### 17. Behaviour in Council buildings

- 1) A person must not, without a **permit**:
  - a) organise, conduct or hold any function or event in a **Council building**; bring any animal into, or allow any animal under their control to remain in, a **Council building**, except for an assistance animal being used by a person with a disability;
  - b) bring any **vehicle** into a **Council building** (other than a pram, pusher, wheel chair or other medical device).
- 2) A person must not:
  - a) smoke any tobacco product or use a device which is used to inhale vaporized liquid containing nicotine, flavourings, or other chemicals inside or within 10 metres of any entry or exit of a **Council building**;
  - b) bring into a **Council building** any substance, liquid or powder which may:
    - i. be dangerous or injurious to health;
    - ii. have the potential to foul, pollute or soil any part of the **Council building**; or
    - iii. cause discomfort to persons.

## 18. Activities prohibited in a Council reserve

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

- a) enter or remain on any area that is the playing surface of an organised sporting match or event, unless they are a player or official or a competitor at the sporting match or event;
- b) destroy, damage, climb on, remove or interfere with any tree, shrub or other vegetation;
- c) destroy, damage, remove or interfere with any structure;
- d) leave any tools or other implements;
- e) walk on or damage any garden bed, border, closed track, replanting area or other area set aside for trees, shrubs or other vegetation;
- f) use any children's playground equipment or exercise equipment other than for the purpose for which it was designed;
- g) enter a **Council reserve**, or a part of a **Council reserve**, contrary to signage prohibiting access to the **Council reserve** or part of the **Council reserve**;
- h) fail to comply with a sign erected or displayed in or on a **Council reserve**;
- i) swim, paddle, dive or jump into or enter any wetland, lake, pond or fountain;
- j) place, throw, or cause, or allow to be placed or thrown, any liquid or **waste** into any wetland, lake, pond or fountain which interferes with the wetland, lake, pond or fountain;
- k) 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 **Council reserve** by any other person.

## 19. Activities which may be permitted in a Council reserve

A person must not, without a **permit**, in or on a **Council reserve**:

- a) ride or drive a **vehicle** or horse except for –
  - i. parking a **vehicle** in an area specified for the parking of **vehicles**;
  - 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 **Council reserve** by any other person;
  - iv. on a shared path or bicycle path
- 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 any other temporary structure or camp in a **motor vehicle**;
- d) hold a circus, carnival, festival or fete intended for members of the public to attend;
- e) operate any device that has a purpose of amplifying voice, music or other noise;
- f) operate, allow to be operated, any drone;
- g) conduct a commercial fitness, exercise or personal training business or otherwise use the Council reserve for a commercial purpose.

## Part 4. Consumption of Liquor in Public Places

### 20. Liquor

- 1) A person must not, without a **permit**:
  - a) consume any **liquor**; or
  - b) have in their possession or control any **liquor** other than **liquor** in a sealed container-  
in a prescribed place or in or on a **vehicle** which is in or at a prescribed place.
- 2) Sub-clause (1) does not apply in places which are:
  - a) licensed premises within the meaning of the *Liquor Control Reform Act 1988*;
  - b) an area in which the consumption of **liquor** is permitted in accordance with a licence granted under the *Liquor Control Reform Act 1988* or this **Local Law**; or
  - c) on any day during the period specified and, in the area specified in a notice signed by **Council's** Chief Executive Officer as being the area and period during which **liquor** may be possessed and consumed.
- 3) If an **Authorised Officer** believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), the **Authorised Officer** may direct the person to seal any container or dispose of the contents of any unsealed container.
- 4) A person who fails to comply with a direction of an **Authorised Officer** under sub-clause (3) is guilty of an offence.
- 5) Council may prescribe any area to be a 'prescribed area' for the purpose of this Local Law including:
  - a) On any day or between dates;
  - b) On any time or between times;
  - c) Or any other way.

## Part 5. Specific Activities

### 21. Signs, goods, and furniture

- 1) A person must not, without a **permit**:
  - a) place, erect, hang, or affix any **advertising sign** or other thing on or above a **road** or **Council Land**; or
  - b) place a mobile billboard on a **road** or **Council Land**; or
  - c) place a mobile billboard on any other location which may interfere with the vision of a pedestrian or a driver of a vehicle.
- 2) A person must not, without a **permit**, place or display or allow to be placed or displayed any goods on a **road** or **Council Land**.
- 3) A person must not, without a **permit**, place or allow to be placed or occupy any **road** or **Council Land** any seat, umbrella, table, chair or any other furniture or any other thing.
- 4) If an **Authorised Officer** believes on reasonable grounds that a person is contravening or has contravened sub-clause (1), (2) or (3), the **Authorised Officer** may direct the person to remove the item or thing from the **road** or **Council Land**.

### 22. Open air performances and busking

- 1) A person must not, without a **permit**, in or on a **public place** for reward:
  - a) play a musical instrument, sing, give a recitation or perform any conjuring, juggling, puppetry, mime or dance or any other entertainment or do any of those things concurrently; or
  - b) draw any message, picture or representation on a wall or pavement surface.
- 2) Council may exempt any person or class of persons or any form of busking from the requirement for a permit.

### 23. Clothing recycling bins

- 1) A person must not, without a **permit**, place a clothing recycling bin on a **road** or **Council Land**.
- 2) A person must not, without a **permit**, place a clothing recycling bin on any **private land**.
- 3) A person must not:
  - a) interfere with a clothing recycling bin; or
  - b) deposit goods near or around a clothing recycling bin; or
  - c) remove the contents of a clothing recycling bin unless the person is an employee, agent or contractor of the person who placed the bin

### 24. Charitable collections

- 1) A person must not, without a **permit**, solicit or collect a gift of money or subscription or **sell** a raffle ticket in or on a **Public Place**.
- 2) A person must not allow, cause, instruct or authorise another person to solicit or collect a gift of money or subscription or **sell** a raffle ticket in or on a **Public Place** in contravention of sub-clause (1).

## 25. Distribution of handbill, advertising material and selling of goods

- 1) A person must not, without a **permit**, in a **Public Place** or from **private land** adjacent to a **Public Place**, **sell goods** or solicit or try to attract trade or business or tout or spruik or allow any person to solicit or try to attract trade or business or tout or spruik.
- 2) A person must not, without a **permit**, **sell** any **good** or service on or in a **Public Place** or from **private land** adjacent to a **Public Place** to a person in a **Public Place**.
- 3) A person must not, without a **permit**, display or distribute to any person any handbill in or on a **Public Place** or allow that to occur.

## 26. Shopping trolleys

- 1) A person must not leave or cause to be left or authorise another person to leave a shopping trolley on any **road** or **Council Land** other than in an area specifically designated for storing shopping trolleys.
- 2) An **Authorised Officer** or person engaged by **Council** may seize and impound any shopping trolley that is considered abandoned, dumped or poses a safety risk to the community in the opinion of Council or the **Authorised Officer**.
- 3) As soon as practicable after the impoundment of any shopping trolley an **Authorised Officer** must, if the identity of the person who owns the shopping trolley can be identified, serve a notice of impoundment on that person.
- 4) Any impounded shopping trolley must be returned to the owner of that shopping trolley after:
  - a) payment of any fees, as determined from time to time by **Council**, has been paid in full; and
  - b) evidence of ownership of the shopping trolley is provided to the satisfaction of the **Authorised Officer**.
- 5) Any impounded shopping trolley not claimed by the owner within the time specified on the notice of impoundment or within 30 days of the impounding where the owner of the trolley cannot be ascertained, may be disposed of by an **Authorised Officer**.

## 27. Fireworks

- 1) A person must not, from any land outside the urban growth boundary, light or discharge any fireworks.
- 2) The urban growth boundary is depicted as red on the map at Schedule 1 to this Local Law.
- 3) A person must not, without a permit, from any land within the urban growth boundary, light or discharge any fireworks.

## 28. Scare guns

- 1) An **owner** or **occupier** of land which is within a **rural zone** must not, without a **permit**, use or allow the use of scare guns (including scatter guns and gas guns) on the land.
- 2) An **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

### 29. Collection and disposal of animal excrement

- 1) A person who is in apparent control of any animal in or on a **Public Place** must immediately remove that animal's excrement and dispose of it as litter in a lawful manner.
- 2) A person in apparent control of any animal in a **Public Place** must carry a **Litter Device** suitable to clean up and remove any excrement left by their animal and must produce that **Litter Device** upon request of an **Authorised Officer**.
- 3) A person who fails to produce a **Litter Device** when requested to do so is guilty of an offence.
- 4) A person who is in apparent control of any **livestock** in or on a **Public Place** must remove that livestock's excrement from any surface designed for and used by pedestrians.
- 5) A person must not wash, sweep or place animal excrement onto a **Public Place**

### 30. Keeping animals

- 1) An **owner** or **occupier** of **private land** must not, without a **permit**, keep or allow to be kept on that land at any time, any more than the number of each type of animal as set out in the table below:

*Maximum permitted animals without a permit*

Column 1 Type of animals	Column 2 Land less than 1000m <sup>2</sup>	Column 3 Land sized 1000m <sup>2</sup> to 4000m <sup>2</sup>	Column 4 Land greater than 4000m <sup>2</sup>
Dogs	2	2	2
Cats	2	2	2
Large birds (pigeon, cockatoo or other bird of similar or larger size but does not include poultry)	5	10	10
Poultry	5	10	24
Roosters	0	0	1
Other livestock	0	0	Not limited by this Local Law

- 2) For the purposes of sub-clause (1), none of the following animals is to be counted:
  - a) any bird or poultry (other than a rooster) that is less than 12 weeks old;
  - b) or any dog or cat that is less than 3 months old.

### 31. Animal buildings and cleanliness

- 1) An **owner** or **occupier** of **private land** must not erect or use or allow the erection or use of a kennel (including any fenced area used as a run) that is within 1 metre from the boundary of any adjoining land.
- 2) An **owner** or **occupier** of **private land** must not erect or use or allow the erection or use of a poultry house or pigeon loft within 10 metres from any neighbouring building used as a dwelling.
- 3) An **owner** or **occupier** of **private land** must not keep any poultry other than in a poultry house and any pigeons other than in a pigeon loft.



- 4) An **owner** or **occupier** of any **private land** on which an animal is kept must ensure that the part of the land on which the animal is kept, or which is used by the animal is maintained :
  - a) in a clean, inoffensive, and sanitary condition and
  - b) so as not to cause a nuisance to any person or to be offensive.
- 5) An **owner** or **occupier** of any **private land** on which an animal is kept must ensure that the animal is provided with adequate:
  - a) clean drinking water; and
  - b) sustenance; and
  - c) shelter.
- 6) An **owner** or **occupier** of **private land** on which any animal is kept must ensure that all food for consumption by the animal (except hay) is kept or stored in a rodent-proof receptacle or rodent-proof building.

### 32. Animal noise

An **owner** or **occupier** of any **private land** on which an animal is kept must ensure that the animal is not a nuisance.

### 33. Feeding of wild birds

- 1) An **owner** or **occupier** of any land must not cause a nuisance by feeding or allowing a person or causing a person to feed any bird.
- 2) For sub-clause (1), 'land' means **private land** which is specified in the Procedure and Protocol Manual.

### 34. Bees and wasps

- 1) An **owner** or **occupier** of **private land** on which bees are kept must comply with the Apiary Code of Practice.
  - 2) An **owner** or **occupier** of **private land** on which bees are kept must ensure that the bees are not a nuisance.
  - 3) An **owner** or **occupier** of land must upon becoming aware of the existence of a non-native wasp or bee nest on the land or at the direction of an *Authorised Officer* must take steps to cause the removal of the wasp or bee nest by an appropriate contractor.
- Dead livestock

### 35. Dead livestock

An **owner** or **occupier** of **private land** must ensure that dead **livestock** is not a nuisance or detrimentally affect the amenity of the area.

## Part 7. Land Use and Amenity

### 36. Alarm systems

- 1) An **owner** or **occupier** of **private land** or the owner of a **motor vehicle** must not:
  - a) install or place (or allow that to occur) on that land or in that motor vehicle an audible alarm that when activated is audible outside the land or motor vehicle for more than 10 consecutive minutes; or
  - b) allow an audible alarm to be audible for more than 10 consecutive minutes or more than 10 minutes within a period of one (1) hour.
- 2) An **owner** or **occupier** of **private land** must not allow light signal from lighting on that land to be a nuisance when activated.

### 37. Unsightly and dangerous land

- 1) An **owner** or **occupier** of **private land** must not cause or allow the land:
  - a) to be kept or used in a manner which is dangerous or likely to cause danger to health, life or property; or
  - b) to be unsightly.
- 2) An **owner** or **occupier** of **private land** must not cause or allow the land to contain **noxious weeds, environmental weeds** or excessive vegetation growth or be a haven for vermin or insects.
- 3) An **Authorised Officer** may require an **owner** or **occupier** of any **private land** in contravention of this clause to erect temporary fencing around the boundary of the land.

### 38. Obstruction to visibility

The **owner** or **occupier** of **private land** must ensure that any tree, shrub, hedge or other vegetation or structure, container or other thing does not obstruct the clear sight:

- a) of any pedestrian using the footpath; or
- b) of any driver of a vehicle or any other vehicles, any pedestrian or traffic control sign.

### 39. Overhanging and encroaching vegetation

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

- a) to overhang a **road**, at a height of less than four metres from the surface of the **road** or **Council Land**, or
- b) to encroach on a **road** or **Council Land**

### 40. Chimneys and other nuisances

- 1) An **owner** or **occupier** of **private land** must ensure that a chimney does not discharge dust, grit, ashes, smoke, or odour that is unreasonable.
- 2) An **owner** or **occupier** of **private land** must ensure that the amenity of the area is not detrimentally affected by:
  - a) the emission of odours, dust, or particles of fertiliser or compost; and
  - b) flies or other disease vectors on the land.

#### 41. Containment and disposal of swimming pool wastewater

An **owner** or **occupier** of **private land** must ensure that any wastewater or backwash water from a swimming pool filtration system is disposed of:

- a) in the sewer (if available on the land); or
- b) on the land on which the swimming pool is located, separate to location of the onsite wastewater system.

#### 42. Incinerators

An **owner** or **occupier** of **private land** must not use or allow to be used any incinerator on that land.

#### 43. Open air burning

- 1) An **owner** or **occupier** of **private land** that is less than 0.4 hectare must not, without a **permit**, carry out open air burning.
- 2) An **owner** or **occupier** of **private land** that is greater than 0.4 hectare may carry out open air burning provided:
  - a) the open air burning is for fuel reduction for fire prevention; and
  - b) the open air burning is not carried out during the **fire danger period**, on total fire ban days or at any other time the Country Fire Authority declares fire restrictions; and
  - c) the person has given prior notification to the Emergency Services Telecommunications Authority; and
  - d) the fuel when burnt does not emit an odour or smoke that is noxious or offensive or otherwise creates a hazard; and
  - e) reasonable measures are taken by the person to advise neighbouring landowners and occupiers at least 24 hours beforehand; and
  - f) the distance from the outer extremity of the fire to any other fuel is at least three metres, including above the fire; and
  - g) the wind at the site of the fire does not exceed 19 kilometres per hour; and adequate measures are taken to ensure the open air burning is confined to the land; and
  - h) materials to be burnt are not plastic, rubber, chemicals, petroleum- based products, painted or treated timber, furniture, strippers, resins, batteries, glues and aerosol cans, green or wet vegetation; and
  - i) materials must not be brought onto the property for the purposes of burning off; and
  - j) there is always an adequate number of persons and supply of tools and water supply available to control the fire and prevent it spreading or escaping.

#### 44. Large fire and multiple fires

- 1) An **owner** or **occupier** of land that is less than 0.4 hectare must not carry out the burning of **large heap** or multiple fires on the land.
- 2) An **owner** or **occupier** of land that is 0.4 hectare or more may carry out the burning of **large heap** or multiple fires provided that:
  - a) all conditions in clause 43 (2) are met; and
  - b) any large heap or multiple fires does not pose a danger to any person or neighbouring property at any time;
  - c) the person has given prior notification to the Emergency Services Telecommunications Authority.

#### 45. Bulk waste containers

- 1) A person must not, without a **permit**, leave or allow to be left any skip bin or other bulk **waste** container on a **road** or **Council Land**.
- 2) If a skip bin or other bulk waste container is placed on a **road** or **Council Land** the owner of the skip bin or bulk waste container is guilty of an offence.
- 3) The person who operates a skip bin business must ensure that all skip bins or other bulk **waste** containers have the name of the operator of the business and the contact telephone number legibly and permanently displayed on the body of the skip bin or bulk **waste** container.

#### 46. Use of recreational vehicles

A person must not, without a **permit**, on **private land**, use a **recreational vehicle**, or allow a **recreational vehicle** to be used.

#### 47. Toy vehicles

- 1) A person must not:
  - a) leave a **toy vehicle** on a **road** or in a **Public Place**;
  - b) use a **toy vehicle** in a manner which interferes with other persons use of a **road** or **Public Place**.
- 2) A person must not allow another person under their care or control to use or leave a **toy vehicle** in contravention of sub-clause (1).

#### 48. Repair and sale of vehicles on roads and council land

A person must not, without a **permit**, 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, paint, or repair any **vehicle** except where necessary to repair the vehicle to move it from the **road** or **Council Land**

#### 49. Identification of Premises

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

## 50. Caravans, movable and temporary dwellings

A person must not, without a **permit**, occupy a caravan, a camper trailer, a movable dwelling, a vehicle, or other temporary structure on **private land** for more than 30 consecutive days.

## 51. Shipping containers

The **owner** or **occupier** of any land must not, without a **permit**:

- a) place; or
- b) cause or allow to be placed-
- c) a shipping container on the land.

## 52. Protection of amenity trees

1) A person must not, without a **permit**, on **private land**:

- a) remove, destroy, damage, interfere with or kill a **substantial tree**;
- b) direct, authorise, or allow another person to remove, destroy, damage, interfere with or kill a **substantial tree**.

2) Sub-clause (1) does not apply to:

- a) a person whose actions are authorised under a Planning Permit issued under the **Planning Scheme**;
  - b) the removal, destruction or damage of, or interference with a **substantial tree** which is located:
    - i. in the bushfire prone area or bushfire management overlay under the **planning scheme**; or
    - ii. outside the urban growth boundary as depicted in the Map at schedule 1 of this local law.;
  - c) a person whose actions are required by any other legislation or by any other statutory authority or this **Local Law**;
  - d) a person acting in accordance with an instruction or direction from an **Authorised Officer**; or
  - e) a **substantial tree** to which an exemption applies under the Procedure and Protocol Manual
- 3) If a **substantial tree** is interfered with contrary to sub-clause (1), the owner of the **private land** on which the **substantial tree** is located is guilty of an offence, whether the person who contravened sub-clause (1) is identified or prosecuted.
- 4) A person must not, without a permit, remove, destroy, damage, interfere with or kill any part of a **substantial tree** that overhangs into the **private land** of that person other than in accordance with this clause 52.

## Part 8. Waste Disposal

### 53. Commercial waste collection

- 1) A person must not collect commercial **waste** other than between the following times:
  - a) if the collection is once per week, between the hours of 6:30 am – 8 pm Monday to Saturday and 9 am – 8 pm Sunday and public holidays; or
  - b) if the collection is two or more collections per week, between the hours of 7 am – 8 pm Monday to Saturday and 9 am – 8 pm Sunday and public holidays.
- 2) A person who collects commercial **waste** must not carry out the action of compacting the waste whilst the vehicle is stationary.
- 3) An **occupier** of commercial premises must ensure that the waste bins used for the commercial premises are located so that they do not impact on occupiers of residential premises.

### 54. Domestic waste collection, and recyclable materials

- 1) An **occupier** of a dwelling must comply with the requirements of the Procedure and Protocol Manual in relation to Council waste services.
- 2) A person must not deposit **waste** or other matter in another person's bin.
- 3) A person must not deposit in any bin supplied by **Council**:
  - a) hazardous **waste** or chemicals; or
  - b) hot ashes or hot material; or
  - c) a gas bottle or any container of pressurised gas; or
  - d) building or renovation waste including soil, bricks or rubble; or
  - e) or medical **waste**, veterinary **waste** or syringes; or
  - f) e-waste, including computers and electrical components and batteries; or
  - g) tyres.
- 4) A person must not damage or destroy any bin supplied by **Council**.
- 5) A person must not remove or interfere with any recyclable material left out on a **road** or at any other collection point which is to be collected by **Council** or its contractor.
- 6) An **occupier** of land must not place a bin supplied by **Council** in a place that:
  - a) obstructs the free use of the **road** by **motor vehicles**; or
  - b) obstructs the free use of a footpath by pedestrians.
- 7) An **occupier** of land must ensure that:
  - a) any bin supplied by **Council** is kept in good order and in a clean, sanitary, inoffensive condition; and
  - b) any bin supplied by **Council** is stored within the land to which it is allocated; and
  - c) any bin supplied by **Council** is not overfilled so that the lid is prevented from being closed; and
  - d) any **waste** that has spilled onto a road is collected and appropriately disposed of.
- 8) **Council** or an **Authorised Officer** may, by notice in writing, direct the **owner** or **occupier** of land to:
  - a) install;
  - b) repair;
  - c) replace; or
  - d) modify -

a fence or other means of screening bins if the bins are unsightly, dangerous, or detrimental to the general amenity of the area, in the opinion of Council or the **Authorised Officer**

- 9) An **owner** or **occupier** of land must ensure that emptied bins are returned to within the land within 24 hours after emptying.

## 55. Transportation of waste

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

- a) no leakage occurs or matter is dropped or deposited on any **road**;
- b) the escape of offensive odours is minimized.

## 56. Use of Council recycling centre

- 1) A person who uses the **Council recycling centre** must comply with the requirements in the Procedure and Protocol Manual.
- 2) A person who is not a **Council** employee must not remove material of any kind which has been deposited at the **Council recycling centre**.

## 57. Hard waste collections

An **owner** or **occupier** of **private land** must comply with the requirements of the Procedure and Protocol Manual in relation to a **hard waste collection**.

## Part 9. Protection and Management of Council Assets and Infrastructure

### 58. Actions affecting Council Land

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

- a) destroy, deface, damage or interfere with any **Council Land**; or
- b) occupy or fence off any part of the **Council Land**; or
- c) construct landscaping works or retaining walls on **Council Land**; or
- d) erect a hoarding or overhead protective awning on **Council Land**; or
- e) use a mobile crane or travel tower or other equipment or machinery on **Council Land**; or
- f) make a hole or excavation or reinstate a hole or excavation on **Council Land**; or
- g) leave or place any building material or equipment on **Council Land**; or
- h) leave any **waste** or debris or any other thing on **Council Land**; or
- i) plant any tree or other vegetation on **Council Land**; or
- j) remove or damage any tree or vegetation on **Council Land**.

### 59. 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 **Council** is maintained:

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

### 60. Stormwater drainage connections under the footpath

- 1) An **owner** or **occupier** of land must ensure that any stormwater pipe that carries stormwater from the land to a **Council** drain is properly constructed and always maintained.
- 2) The **owner** or **occupier** of land must ensure that all buildings on the land are connected to the stormwater drainage system at the legal point of discharge specified by **Council**.

### 61. Protection of drains

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

- a) destroy, or
- b) damage, or
- c) interfere with; or
- d) tap into; or
- e) cover or obscure- any **Council** drain.

### 62. Protection of roads

- 1) A person must not, without a **permit**:
  - a. occupy or fence off any **road** or part of **road**; or
  - b. erect a hoarding or scaffolding on a **road**; or
  - c. use a mobile crane or travel tower for any work on a **road**; or
  - d. make a hole or excavation in a **road**; or
  - e. fill a hole or excavation in a **road**; or



- f. remove, damage, or interfere with a temporary traffic signal, sign, barrier, or other structure erected to protect pedestrians or regulate traffic on a **road**.
- 2) An **Authorised Officer** may impound any equipment, fence, hoarding, scaffolding, or other thing that is in contravention of sub-clause (1).

### 63. Protection of vegetation

- 1) A person must not, without a **permit**, on any **Council Land** or **road** 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 are listed in the incorporated document '*Nillumbik Live Local Plant Local – Nillumbik Shire Council, August 2014*'.
- 2) Sub-clause (1), does not apply to the removal of any tree or vegetation from a **road** if it is:
  - a) for the purpose of 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
  - b) removal of vegetation that has fallen onto the **road** from abutting **private land**; or
  - c) removal of fine fuels (which include dry grass, leaves, twigs and loose bark), but not larger logs or branches by **owners** or **occupiers** of abutting land for fire hazard reduction purposes; or
  - d) 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 in the Procedure and Protocol Manual; or
  - e) removal of vegetation for fire hazard reduction purposes when in accordance with a fire prevention notice issued by the Council Fire Prevention Officer or an Assistant Fire Prevention Officer under section 41 of the *Country Fire Authority Act 1958*, or
  - f) activities undertaken by 'Friends Of', Landcare Groups and community fireguard groups in accordance with a land management agreement approved by **Council**.

### 64. Vehicle crossings

- 1) The **owner** or **occupier** of any land must ensure that:
  - a) each point of **vehicle** access to that land from a **road** has a vehicle crossing constructed to the satisfaction of **Council**; and
  - b) no **vehicle** enters or leaves the land except by using the vehicle crossing; and
  - c) any redundant vehicle crossing is removed if directed in writing by **Council**.
- 2) An **owner** or **occupier** of land must not, without a **permit**, temporarily construct, remove, or alter a vehicle crossing.

### 65. Asset protection permits

- 1) If a building permit is required for **building work** on land and that **building work**, person or class of persons has not been exempted:
  - a) the **owner** of the land; or
  - b) the **builder** engaged to carry out **building work** on the land; or
  - c) any **appointed agent**; or
  - d) any demolition contractor engaged to demolish a building or structure or any other object on the land as part of the **building work** must:

- e) not carry out or allow to be carried out **building work** on that land unless an **Asset Protection Permit** has been obtained; and
  - f) pay any bond determined by the **Council** in accordance with the Procedure and Protocol Manual; and
  - g) not carry out or allow to be carried out **building work** on that land in breach of any conditions of an **Asset Protection Permit**
- 2) An **owner** or **occupier** of land, **builder**, **appointed agent**, or demolition contractor must comply with the requirements of the Procedure and Protocol Manual.

## Part 10. Bend of Islands

### 66. Restriction on animals within Bend of Islands

The Bend of Islands is a unique area within the municipal district of Council. The ecology of the area is dominated with distinct understory vegetation of grasses, woody shrubs, orchids, vines and herbs. There are over one hundred and eighty (180) species of birds and threatened species include the powerful owl and the brush-tailed phascogale. The object of the local law is to prohibit the keeping of domestic pets including dogs and cats and livestock within the area of the Bend of Islands to protect and preserve the unique ecology of the area.

- 1) An **owner** or **occupier** of **Land** must not keep a domestic pet or livestock on that **Land**.
- 2) A person must not:
  - a. bring on any **Land**; or
  - b. have in their possession on any **Land**-any domestic pet or livestock.
- 3) In this clause –

**Land** means any land that is within or partly within the boundary of the Bend of Islands as shown in the map in Schedule 2 of this Local Law

## Part 11. Requirements of Building Sites

### 67. Hours of building work

A person must not, without a **permit**, carry out or allow to be carried out, **building work**;

- 1) before 7am or after 6pm on any day or days between Monday to Friday (inclusive); or
- 2) before 9am or after 3pm on a Saturday; or
- 3) on a Sunday; or
- 4) on Anzac Day, Good Friday, Christmas Day, or the Monday after Christmas Day when Christmas Day is a Saturday or the Tuesday after Christmas Day when Christmas Day is a Sunday.

### 68. Stormwater protection

Where any **building work** is being carried out on any land, the **owner, builder**, or appointed agent must ensure that any contaminated water including:

- 1) run off of chemicals, sediments, concrete, soil, wash down, animal waste or other pollutants; and
- 2) water used to wash down and clean equipment - does not enter the storm water system.

### 69. Containment of refuse

- 1) Prior to the commencement of any **building work** and continuing until the **completion of the building work**, the **owner, builder** or **appointed agent**:
  - a) must provide a **facility** for the purpose of disposal of refuse and **waste** that may be wind-blown; and
  - b) must place the **facility** on the land and keep it in place (except for such periods as are necessary to empty the facility); and
  - c) must not place the **facility** on any **Council Land** or **road** unless with a **permit**; and
  - d) must empty the **facility** whenever full and, if necessary, provide a replacement **facility** during the emptying process; and
  - e) must ensure that all refuse and **waste** in or on the land that may be wind-blown is placed in the **facility**.
- 2) An **owner, builder** or **appointed agent** must remove all refuse and **waste** from the land where the **building work** is being undertaken, within 21 days of the **completion of building work**.
- 3) For this clause, '**facility**' means a suitable receptacle for refuse and **waste** and capable of retaining the refuse and waste on the land on which the facility is located.
- 4) For this clause '**completion of building work**' means:
  - a) in relation to **building work** that requires an occupancy permit to be issued, the date the occupancy permit is issued; or
  - b) in relation to **building work** that requires a certificate of final inspection to be conducted, the date the final inspection is conducted.

### 70. Building site fencing

- 1) 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 1500m<sup>2</sup> in size.
- 2) An **owner, builder** or **appointed agent** engaged in **building work** must ensure that the land has **adequate site fencing**.

- 3) For this clause, '**adequate site fencing**' means a fence or gate of a temporary or permanent nature, that:
- a) extends to a height of not less than 1500mm; and
  - b) includes a barrier at the base of the fence to stop sediment and refuse from escaping under the fence; and
  - c) can prevent refuse and **waste** from being blown from the land by wind, rain or other means; and  
has only one **vehicle** access opening that:
    - i. has a width of no greater than 2800mm; and
    - ii. is fitted with a gate with a height of not less than 1500mm which prevents refuse and waste from being blown from the land; and
    - iii. is located to correspond with a vehicle crossing for the land; and
    - iv. does not obstruct or encroach upon any **road**; and is sufficiently secure to withstand strong winds; and
    - v. does not pose a risk to persons, property, or vehicles.
- 4) For this clause, residential zone, commercial zone, activity centre zone or industrial zone means those zones in the **Planning Scheme**.

## 71. Sanitary facilities on building sites

- 1) Prior to the commencement of any **building work**, and continuing to the **completion of building work**, the **owner, builder, or appointed agent** must provide a sewerer toilet or a fresh water flushing portable toilet and ensure that it is serviced and available for the use of the persons on that site.
- 2) 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:
- a) no more than three adjacent building sites rely on the same sewerer toilet or fresh water flushing toilet, and
  - b) access to the sewerer toilet or fresh water flushing toilet is available for any person working on any of the three adjacent sites.
- 3) The **owner, builder or appointed agent** must advise **Council** within 7 days of the installation of a sewerer toilet or fresh water flushing toilet and obtain **Council** written consent prior to removing the toilet from the land.
- 4) For this clause '**completion of building work**' means:
- a) in relation to **building work** that requires an occupancy permit to be issued, the date the occupancy permit is issued; or
  - b) in relation to **building work** that requires a certificate of final inspection to be conducted, the date the final inspection is conducted.

## 72. Identification of building sites

- 1) Prior to the commencement of any **building work** and continuing to the **completion of building work**, the **owner, builder or appointed agent** must erect and maintain a sign at the main entrance of the **building site** which:
- a) is at least 600 millimetres in height and 400 millimetres in width; and
  - b) is placed in such a location as to be clearly visible and legible from the **road**; and
  - c) contains the lot number of the site as described in the relevant certificate of title; and

- d) identifies the name, postal address and a business hours contact telephone number or numbers of the person in charge of the **building work**; and
  - e) identifies the **Asset Protection Permit** number applicable to the **building work**.
- 2) If, prior to the completion of the **building work**, there is a change of **builder** or appointed agent, the **owner** must, within seven days of that change,
  - a) give written notice to the **Council**; and
  - b) cause any sign erected in accordance with sub-clause (1) to be replaced or amended so that the identification of the name, postal address and contact number or numbers of the person in charge of the **building work** is correct and up-to-date

### 73. Equipment and materials delivery

- 1) A person must not deliver to land for which **building work** is being undertaken any equipment or materials unless an **Asset Protection Permit** has been issued for the land.
- 2) A person must deliver to any land any equipment or materials for **building work** directly from the **road**, over the **vehicle crossing** to the land.

## Part 12. Administration of the Local Law

### 74. Council may issue permits

- 1) **Council** may decide to:
  - a) grant a permit;
  - b) refuse to grant a permit;
  - c) grant a permit with conditions; or
  - d) determine that no permit is required.
- 2) An application for a **permit** must be in the form and provide the information as prescribed by **Council**.
- 3) An application for a **permit** must comply with the Procedure and Protocol Manual.
- 4) **Council** may from time to time:
  - a) prescribe, regulate or determine the purposes for which and the conditions on which **Council** may-
    - i. grant a permit, licence, authority, or information; and
    - ii. prescribe the manner and form in which an application may be made for a **permit**, licence, authority or information; and
  - b) prescribe the fee which is payable for the granting, renewal or transfer of a permit, licence, authority, or registration; and
  - c) adopt any policy that may apply to **permits** being issued, or the refusal to issue a **permit**; and
  - d) determine any other matter related to issuing **permits** under this **Local Law**.
- 5) **Council** may request further information prior to issuing, or refusing to issue, a **permit**.
- 6) **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.
- 7) Unless it is extended sooner, a **permit** expires on the date specified in the **permit** or if no date is specified the **permit** will expire one year after the date of issue.
- 8) A **permit** will be in the form approved by **Council** from time to time and may include any condition which **Council** considers to be reasonable and appropriate, including one or more of the following:
  - a) a requirement that a security bond, release, indemnity or guarantee (in a form specified) be lodged with or given to **Council** to secure the proper performance of the **permit**; or
  - b) a requirement that notice be given to **Council** as and when the activities authorised by the **permit** will be carried out or will occur; or
  - c) a time limit on the **permit** or on the activities authorised by it; and
  - d) provision for the extension of the **permit**; or
  - e) the payment of a fee or charge; or
  - f) a standard to be applied; or
  - g) that the **permit** is conditional on the happening of a certain event or prerequisite; or
  - h) that the **permit** is conditional upon the rectification, remedying or restoration of any situation or circumstance; or
  - i) where the applicant is not the owner of the relevant premises, that the consent of the owner be obtained.
- 9) Unless otherwise stated in the **permit**, the **permit**:
  - a) authorises only the person or persons named on the **permit** to carry out

- the activity authorised by the **permit**, including by engaged contractors or appointed agents; and
- b) is not transferable.

## 75. Correction amendment, cancellation and suspension of a permit

- 1) **Council** may correct a **permit** if the **permit** contains:
  - a) a clerical mistake or an error arising from any accident, slip or omission; or
  - b) a material miscalculation of figures or a material mistake in the description of any person, premises, thing, or property referred to in the permit.
- 2) **Council** must note the correction in the record of **permits**.
- 3) **Council** may cancel, suspend, or amend a **permit** at any time if there is:
  - a) a material misrepresentation or concealment of fact in relation to the application for the **permit**; or
  - b) any material mistake in relation to the grant of the **permit**; or
  - c) any change of circumstances which has occurred since the grant of the **permit**; or
  - d) a hazard, danger or inconvenience to any other person, premises, thing or property because of the grant of the permit; or
  - e) any failure to comply with the conditions of the **permit** or any breach of this **Local Law**, including a failure to comply with a notice to comply; or
  - f) a default in the payment of the **permit** or any bond or security by the holder of the **permit**
- 4) Prior to cancelling, amending or suspending a **permit**, **Council** must notify the holder of a **permit** of:
  - a) **Council's** intention to amend, cancel or suspend the **permit**, and the basis of the intended decision, and
  - b) the **permit** holder's right to make a written submissions within a specified period before the **permit** is amended or cancelled.
- 5) **Council** must consider any written submission made by the **permit** holder prior to deciding to cancel or amend the **permit**.
- 6) If the circumstances are urgent **Council** may cancel, amend, or suspend the permit without complying with sub-clause (4) and (5).
- 7) **Council** must record the cancellation, amendment or suspension of the **permit** in the record of **permits** and must notify the **permit** holder in writing of the decision to cancel, amend or suspend the **permit**.

## 76. Fees and charges

- 1) **Council** may by resolution:
  - a) determine a fee, charge, fare or rent in relation to any property, undertaking, good, service or other act, matter or thing; and
  - b) prescribe, regulate, or determine the purposes for which and the conditions on which **Council** may –
    - i. grant a **permit**, licence, authority or registration; or
    - ii. supply any goods or information.
- 2) **Council** may by resolution impose fees by providing for all or any of the following:
  - a) specific fees;



- b) maximum or minimum fees; or
- c) maximum and minimum fees; or
- d) scales of fees according to the value of goods or services provided for the fees or the project being assessed; or
- e) the payment of fees either generally or under specified conditions or in specified circumstances; or
- f) the reduction, waiver or refund, in whole or in part, of the fees.

## 77. Delegation

In accordance with section 78 of the **Act**, **Council** delegates to the Chief Executive Officer, who can sub delegate to **Authorised Officers** all the powers, discretions, authorities and considerations of **Council** under this **Local Law** including the powers, discretions, authorities and considerations to make a direction by Notice to Comply, the powers, discretions and authority to issue or refuse **permits**, fix conditions and directions relevant to **permits**, cancel or suspend **permits** require additional information, apply guidelines, standards or codes of practice of **Council**, waive the need for any **permit** or to do any act, matter or thing necessary or incidental to the exercise of any function or power by **Council**.

## 78. Exemption from the requirements of this Local Law

- 1) **Council** may, by written notice, exempt any person or class of persons or any land or class of land from the requirements of this Local Law or the requirement to obtain a **permit** either generally or at specified times.
- 2) The Procedure and Protocol Manual may exempt any person or class of persons or any land or class of lands from the requirements of this Local Law or the requirement to obtain a **permit**.

## Part 13. Enforcing this Local Law

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

- 1) A person is guilty of an offence if the person:
  - a) does something which a provision of this **Local Law** prohibits to be done; or
  - b) fails to do something which a provision of this **Local Law** requires to be done; or
  - c) engages in activity without a **permit** where a provision of this **Local Law** prohibits a person from engaging in that activity without a **permit**; or
  - d) breaches or fails to comply with a condition of a **permit**; or
  - e) fails to comply with a notice to comply directed to that person, including a failure to comply within the time specified in the **notice to comply**; or
  - f) fails to comply with any written direction given under this **Local Law**.
- 2) The maximum penalty that may be imposed for any offence against this **Local Law** is that set out in the Procedure and Protocol Manual or, if no penalty is fixed for a particular offence, is 5 penalty units.

### 80. Notices to comply

- 1) Where **Council** reasonably believes that a person has committed an offence against this **Local Law**, **Council** may issue to the person a written notice to comply, which contains any or all of the following:
  - a) a direction to the person to stop the conduct constituting the offence; or
  - b) a direction to the person to carry out the action required to comply with the **Local Law** or permit; or
  - c) a direction to the person to carry out the action to remedy the contravention and any consequence of the contravention.
- 2) A notice to comply must contain the following particulars:
  - a) the name of the person to whom the notice to comply is directed; and
  - b) the address of the person to whom the notice to comply is directed ; and
  - c) the offence and the provision of this **Local Law** that is alleged to have been
  - d) contravened; and
  - e) the matters specified in sub-clause (1) and the time for compliance; and
  - f) the date which the notice to comply was issued; and
  - g) the name and signature of the Council person issuing the notice to comply.
- 3) The time for compliance with a notice to comply issued under this **Local Law** must be reasonable in the circumstances, and what will be reasonable will vary depending on the matters to be remedied and the risks that the contravention poses.
- 4) In determining what is reasonable, **Council** will consider:
  - a) the amount of work involved; and
  - b) the degree of difficulty; and
  - c) the availability of necessary materials or other items; and
  - d) climatic conditions; and
  - e) the degree of risk or potential risk to third parties and the public generally; and
  - f) any other relevant factors.

## 81. Power to act in urgent circumstances

**Council** may act to remedy any circumstance which threatens a person's life, health or property, or an animal, or to prevent any danger to the environment or any nuisance arising or damage to a **Council** asset, without serving a notice to comply, provided that:

- a) the circumstance arises out of a person's use of **Council Land** or a **road** or failure to comply with a provision of this **Local Law**; and
- b) **Council** considers the circumstances to be sufficiently urgent that the time necessary to serve a notice to comply or locate the person to serve a notice to comply is outweighed by the urgency of the circumstances; and
- c) the action taken is no more than the minimum reasonably necessary to remedy the urgent circumstance; and
- d) the person on whom a notice to comply would have otherwise been served is as soon as possible notified of the urgent circumstance and the action taken to remedy it.

## 82. Impounding

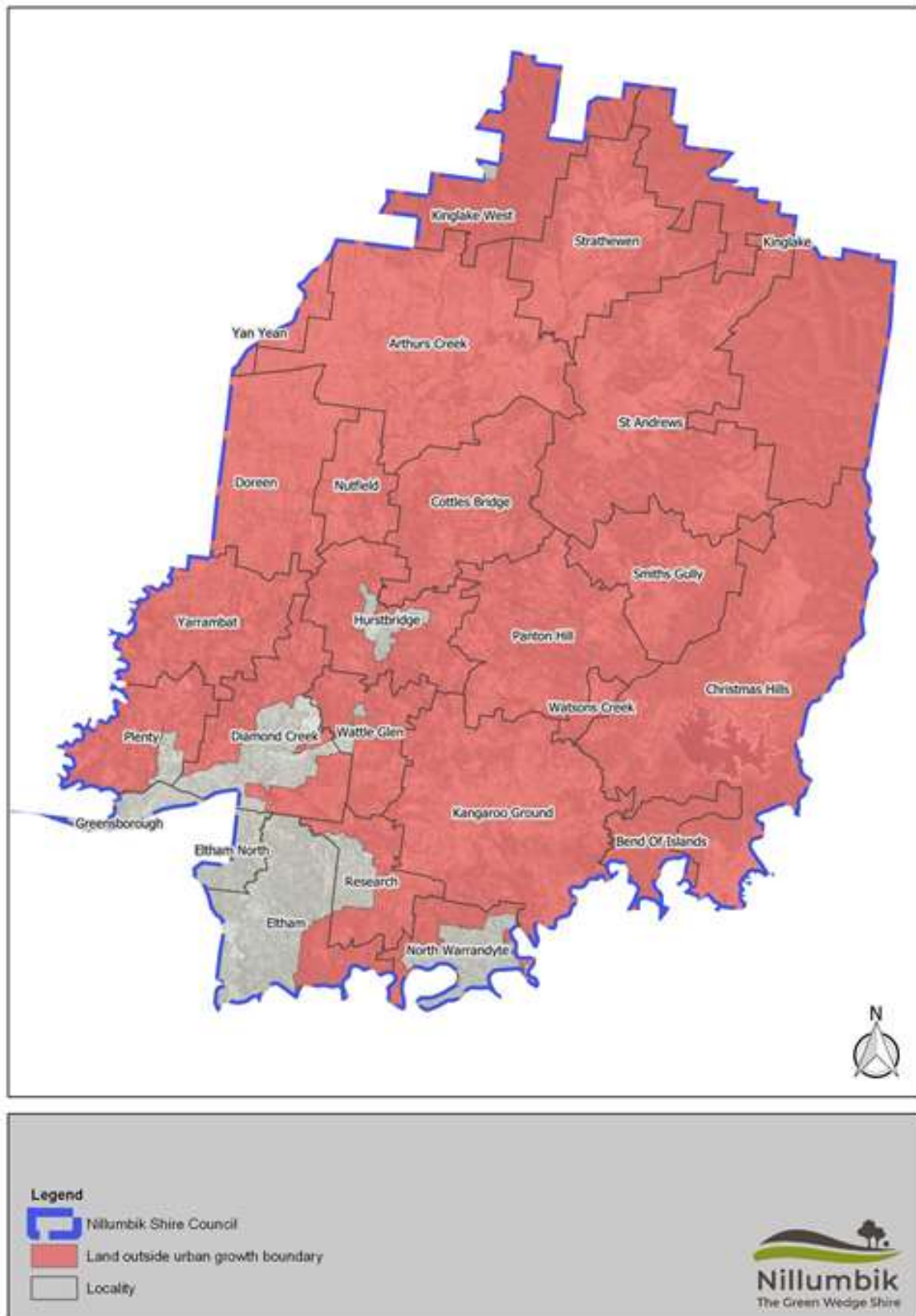
- 1) **Council** may seize and impound anything which is, has been or is being used, possessed, placed on, or left in contravention of this **Local Law** or a notice to comply.
- 2) Where a thing has been impounded under this **Local Law**, **Council** must, if it is practicable to do so, serve notice of the impounding personally, by email or by ordinary post on the person who appears to be the owner of the thing.
- 3) On receipt of evidence that, to **Council's** satisfaction, the person is the owner of the thing, and on payment of a fee determined by **Council**, an impounded thing must be given back to its owner or a person who is acting on the owner's behalf.
- 4) Where an impounded thing has not been claimed within 30 days of notice being given in accordance with sub-clause (2), or within 30 days of the thing being impounded if it is not practicable to serve notice of the impoundment in accordance with sub-clause (2) **Council** may:
  - a) sell the impounded thing and retain so much of the proceeds of sale to reimburse **Council** for the costs of impounding and selling; or
  - b) if the value of the impounded thing is less than the cost of selling it, donate it to a registered charity or local community group or dispose of it; and
  - c) any proceeds of sale left after the costs of Council have been reimbursed are to be dealt with pursuant to the *Unclaimed Money Act 2008*.

## 83. Infringement notices

- 1) Where an **Authorised Officer** reasonably believes that a person has committed an offence against this **Local Law**, the **Authorised Officer** may serve on that person an infringement notice.
- 2) The infringement penalties fixed for offences against this **Local Law** are set out in Procedure and Protocol Manual and, if no penalty is fixed for a particular offence, the penalty is 5 penalty units.

## Part 14. Schedules


### Schedule 1 – Urban growth boundary map for Clause 27 – Prohibition of Fireworks – and clause 52 – Amenity Trees



## Schedule 2 - Map of Bend of Islands for Part 10

## Planning Scheme - Special Use Zone 1 &amp; 2



 SUZ - Special Use Zone (All)

~end~